

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:15-25578 Gabriel D. Casillas and Lorena Casillas

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

PENNYMAC LOAN SERVICES, LLC
vs
DEBTOR

Docket 30

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Gabriel D. Casillas

Represented By
Tina H Trinh

Joint Debtor(s):

Lorena Casillas

Represented By
Tina H Trinh

Movant(s):

PennyMac Loan Services, LLC

Represented By
John D Schlotter
Gilbert R Yabes

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

CONT... Gabriel D. Casillas and Lorena Casillas

Chapter 13

Robert P Zahradka
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:15-27558 Kelle Denise Warren

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 47

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Kelle Denise Warren

Chapter 13

Party Information

Debtor(s):

Kelle Denise Warren

Represented By
Ali R Nader

Movant(s):

U.S. Bank National Association

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:16-10324 Erica Ruiz

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

CANDLEWOOD ESTATES HOMEOWNERS ASSOC
vs
DEBTOR

Docket 65

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Erica Ruiz

Chapter 13

Party Information

Debtor(s):

Erica Ruiz

Represented By
Matthew D. Resnik

Movant(s):

Candlewood Estates Homeowners

Represented By
Mark D Estle
Erin A Maloney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:16-18169 Marlene Aybar

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON, ET AL
vs
DEBTOR

Docket 80

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Marlene Aybar

Chapter 13

Party Information

Debtor(s):

Marlene Aybar

Pro Se

Movant(s):

The Bank of New York Mellon, et al

Represented By
Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:16-19344 Ronald Lewis Williams

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 53

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Ronald Lewis Williams

Chapter 13

Party Information

Debtor(s):

Ronald Lewis Williams

Represented By
Joshua L Sternberg

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
William P McCooe Jr
Rosemary Allen
Jenelle C Arnold
Gilbert R Yabes

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:17-18979 Beatriz Valentina Nelson

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 49

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Beatriz Valentina Nelson

Represented By
Cynthia Grande

Movant(s):

Wells Fargo Bank, N.A., as Trustee

Represented By
Merdaud Jafarnia
Nancy L Lee

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#7.00 Hrg re: Motion for relief from stay [RP]

US BANK TRUST
vs
DEBTOR

Docket 114

***** VACATED *** REASON: Cont. to 3/5/19 at 10:00 a.m. stip. (dkt. 118)
and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

US Bank Trust US Bank Trust

Represented By
Kristin A Zilberstein

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-15895 Maria Esther Martinez

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 28

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maria Esther Martinez

Represented By
Heather J Canning

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-15895 Maria Esther Martinez

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

BAYVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

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Central District of California
Los Angeles
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CONT...

Maria Esther Martinez

Chapter 13

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leaffy*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Maria Esther Martinez

Chapter 13

Debtor(s):

Maria Esther Martinez

Represented By
Heather J Canning

Movant(s):

Bayview Loan Servicing, LLC., as

Represented By
Gilbert R Yabes

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-16103 Dexter Humphrey

Chapter 13

#10.00 ***[CASE DISMISSED ON 12/7/18]***

Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY
vs
DEBTOR

Docket 25

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... Dexter Humphrey

Chapter 13

the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dexter Humphrey

Represented By
Michael J Hemming

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-18061 Antonio Gonzales

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

THE RAMA FUND, LLC
vs
DEBTOR

Docket 23

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there is insufficient evidence on the record to convince this Court that Debtor is involved in a scheme to delay, hinder, or defraud the Movant as is required under section 362(d)(4) or the other authorities cited above.

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Antonio Gonzales

Chapter 13

(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Antonio Gonzales

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

The Rama Fund, LLC

Represented By
Martin W. Phillips

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-18879 Allan Popoff, Jr. and Tania L Popoff

Chapter 7

#12.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Allan Popoff, Jr. and Tania L Popoff

Chapter 7

Party Information

Debtor(s):

Allan Popoff Jr.

Represented By
Nicholas M Wajda

Joint Debtor(s):

Tania L Popoff

Represented By
Nicholas M Wajda

Movant(s):

The Bank of New York Mellon fka

Represented By
Nichole Glowin

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-19093 Rodney Albert Gabriel, Jr

Chapter 13

#13.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 41

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 43).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodney Albert Gabriel Jr

Represented By
Julie J Villalobos

Movant(s):

THE BANK OF NEW YORK

Represented By
Ashish R Rawat
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-21827 Santos N Leiva

Chapter 13

#14.00 **[CASE DISMISSED ON 12/28/18]**

Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA, NA
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative, and in addition, this Court grants the following relief.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT...

Santos N Leiva

Chapter 13

bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafy*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Santos N Leiva

Chapter 13

Debtor(s):

Santos N Leiva

Pro Se

Movant(s):

Bank of America, N.A.

Represented By
Bonni S Mantovani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:18-23111 David Carranza

Chapter 13

#15.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 11

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within

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CONT...

David Carranza

Chapter 13

two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you

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CONT... **David Carranza**

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David Carranza

Pro Se

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-23320 Nicole Myles

Chapter 13

#16.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any

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CONT...

Nicole Myles

Chapter 13

bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Nicole Myles

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Nicole Myles

Chapter 13

Movant(s):

Wells Fargo Bank, N.A. as trustee

Represented By
Merdaud Jafarnia
Nancy L Lee

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-23799 Jonathan Ahron

Chapter 13

#17.00 Hrg re: Motion for relief from stay [RP]

JELLY, LLC
vs
DEBTOR

Docket 15

*** VACATED *** REASON: Voluntary dismissal of motion filed on 1/7/19
[dkt. 48]

Tentative Ruling:

Party Information

Debtor(s):

Jonathan Ahron

Represented By
Scott Kosner

Movant(s):

Jelly, LLC

Represented By
Leon D Bayer

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-23799 Jonathan Ahron

Chapter 13

#18.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NA.
vs
DEBTOR

Docket 39

Tentative Ruling:

Grant both motions in part - the motion for relief from the automatic stay regarding the receiver/custodian, and the motion for relief from the automatic stay to proceed with foreclosure and other remedies (dkt. 39 & 41) - and deny them in part, all as set forth below. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Summary

The tentative ruling is to excuse turnover by the receiver under 11 U.S.C. 543, and grant relief under 11 U.S.C. 362(d)(1)&(4) from the automatic stay (a) for the receiver to continue to manage the property and (b) for the judicial and nonjudicial foreclosure processes to go forward, but (c) with no foreclosure sale for approximately 60 days, to provide Debtor with an opportunity to sell or refinance the property. In addition, the tentative ruling is to make the foregoing relief effective notwithstanding any future bankruptcy case by Debtor or anyone else ("*in rem*" relief).

(2) Preliminary issues that this Court must raise

Debtor's response to one of the motions (dkt.46) argues that he is not over the debt limits in 11 U.S.C. 109(e) because the subject real property and debt are not his, but instead are those of the LLC of which he is a member. That appears to be so, which adequately responds to one of Movant's issues, but the fact that the real property and debt do not belong to Debtor implicates jurisdictional issues and other matters that this Court must consider *sua*

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10:00 AM

CONT... Jonathan Ahron

Chapter 13

sponte.

This Court must consider the possibility that if the subject real property and associated debt are those of a third party (the LLC), rather than the property and debt of Debtor and this bankruptcy estate, then arguably (i) the automatic stay does not apply at all (which may have mootness or jurisdictional implications for Movant's request for relief from the stay), or (ii) the real party in interest is the LLC and not Debtor (which may have implications about whether this is an appropriate proceeding in which to grant relief against the LLC). But, having raised these concerns, this Court's tentative ruling is to dismiss them.

Debtor and the LLC cannot have it both ways: (a) they have invoked the automatic stay to stop foreclosure sales; (b) there are substantial arguments that the stay does apply in this case (e.g., under 11 U.S.C. 102(2) and 362(a)(1), (3)&(6)), because any foreclosure would have a very substantial effect on Debtor's own property (his interest in the LLC); (c) there appears to be adequate notice to all parties in interest because Movant has served the motions on Debtor, the LLC, and the other member of the LLC who executed the loan documents; and (d) it appears appropriate to address whether to grant relief from the automatic stay (to the extent it applies in this case) and whether to grant "*in rem*" relief (to prevent the automatic stay from applying in any future bankruptcy cases by the LLC, Debtor, or any other person). The tentative ruling is that Debtor, the LLC, and its other member who executed the loan documents are all estopped to argue otherwise - in other words, it is appropriate to reach the merits.

(3) Excusing turnover

The receiver has been in place since 9/11/18, and was put in place pursuant to Debtor's stipulation in the State Court. In addition, this Bankruptcy Court takes judicial notice based on numerous prior cases that, once a receiver has had time to take possession of property, the removal of that receiver generally is highly disruptive to tenants, vendors, and others, not to mention expensive, and risky in terms of preserving property value. In addition, Movant has presented evidence of housing violations, which Debtor has not rebutted. For all of these reasons, it appears appropriate to excuse the receiver from turnover under 11 U.S.C. 543.

(4) Cause for relief under 11 U.S.C. 362(d)(1)&(4)

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CONT...

Jonathan Ahron

Chapter 13

As just described, it appears that Debtor has had several "bites at the apple," and that in the past he has caused or tolerated inadequate housing conditions. Movant and the receiver now have to either remedy those conditions (and there is no evidence of excess funds that could be used for that purpose, absent advances from Movant), or else run the risk of subjecting tenants to housing that violates applicable laws and regulations, or other adverse consequences. The longer the delay in disposition of the real property, the greater these risks will be.

All of the foregoing is "cause" under 11 U.S.C. 362(d)(1) to modify the stay so as to provide only a limited time in which Debtor can attempt to realize whatever net value the property allegedly has, for the benefit of Debtor and other creditors. There is also evidence of an intent to "hinder" or "delay" Movant, within the meaning of 11 U.S.C. 362(d)(4): namely, the fact that the nonbankruptcy action was brought and that Debtor stipulated to a receiver in that action but then filed his prior bankruptcy case on the eve of foreclosure, and now this current bankruptcy case in which Debtor admittedly seeks to fend off foreclosure for an additional time to sell or refinance.

(5) Relief

Based on the forgoing the tentative ruling is to grant the following relief:

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4); provided that no foreclosure sale shall take place **prior to 3/11/19**.

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise

**United States Bankruptcy Court
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10:00 AM

CONT...

Jonathan Ahron

Chapter 13

ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jonathan Ahron

Represented By
Scott Kosner

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

10:00 AM

CONT... Jonathan Ahron

Matthew S Henderson

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-23799 Jonathan Ahron

Chapter 13

#19.00 Hrg re: Motion for relief from stay [CUST]

JP MORGAN CHASE BANK, NA
vs
DEBTOR

Docket 41

Tentative Ruling:

Please see the tentative ruling for calendar no. 18 (1/8/19 at 10:00 a.m.).

Party Information

Debtor(s):

Jonathan Ahron

Represented By
Scott Kosner

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By
Matthew S Henderson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-23848 Martina Lopez

Chapter 13

#20.00 Hrg re: Motion for relief from stay [RP]

TANTAMOUNT DEVELOPMENT, LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re*

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Tuesday, January 8, 2019

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10:00 AM

CONT...

Martina Lopez

Chapter 13

Choong (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT... Martina Lopez

Chapter 13

Debtor(s):

Martina Lopez

Pro Se

Movant(s):

Tantamount Development LLC

Represented By
Allan D Sarver

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:17-17492 Javier Hernandez

Chapter 13

#21.00 Hrg re: Motion for relief from stay [PP]

ALLY BANK
vs
DEBTOR

Docket 31

*** VACATED *** REASON: Withdrawn [dkt. 33]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Javier Hernandez

Represented By
Lionel E Giron

Movant(s):

Ally Bank

Represented By
Adam N Barasch

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-12148 Roddy Adrian Gregory and Suzan Benito Gregory

Chapter 13

#22.00 Hrg re: Motion for relief from stay [PP]

FINANCIAL SERVICES VEHICLE TRUST
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
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10:00 AM

CONT... Roddy Adrian Gregory and Suzan Benito Gregory

Chapter 13

Party Information

Debtor(s):

Roddy Adrian Gregory

Represented By
Steven A Alpert

Joint Debtor(s):

Suzan Benito Gregory

Represented By
Steven A Alpert

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-21375 Xiao Long Qi

Chapter 7

#23.00 Hrg re: Motion for relief from stay [PP]

MERCEDES-BENZ FINANCIAL SERVICES USA
vs
DEBTOR

Docket 18

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 25).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Xiao Long Qi

Represented By
William H Brownstein

Movant(s):

Mercedes-Benz Financial Services

Represented By
John H Kim

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-21552 Emile Auguste, Jr.

Chapter 13

#24.00 Hrg re: Motion for relief from stay [PP]

FINANCIAL SERVICES VEHICLE TRUST
vs
DEBTOR

Docket 27

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Emile Auguste, Jr.

Chapter 13

Party Information

Debtor(s):

Emile Auguste Jr.

Represented By
Roseann Frazee

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-22569 Gabriela Rodriguez

Chapter 13

#25.00 Hrg re: Motion for relief from stay [PP]

AMERICAN HONDA FINANCE CORP
vs
DEBTOR

Docket 21

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Gabriela Rodriguez

Chapter 13

Party Information

Debtor(s):

Gabriela Rodriguez

Represented By
James D. Hornbuckle

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:16-24095 Jose Luis Lopez and Yolanda Castro

Chapter 13

#26.00 Hrg re: Motion for relief from stay [UD]

U.S. BANK TRUST, NA
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain

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CONT...

Jose Luis Lopez and Yolanda Castro

Chapter 13

exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Jose Luis Lopez and Yolanda Castro Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Luis Lopez

Represented By
Matthew D. Resnik

Joint Debtor(s):

Yolanda Castro

Represented By
Matthew D. Resnik

Movant(s):

U.S. Bank Trust, N.A. as Trustee for

Represented By
Laurie Howell

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-23687 Suzanne A James

Chapter 13

#27.00 Hrg re: Motion for relief from stay [UD]

NAVA DORDICK FAMILY LIMITED PARTNERSHIP
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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CONT... Suzanne A James

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Suzanne A James

Pro Se

Movant(s):

Nava Dordick Family Limited

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-24483 Jesus R Fernandez

Chapter 13

#28.00 Hrg re: Motion for relief from stay [UD]

WILLIAMS L. JURADO
vs
DEBTOR

Docket 13

Tentative Ruling:

Appearances required. Subject to any opposition at the hearing, pursuant to this Court's order shortening time (dkt. 14, the "OST"), the tentative ruling is to grant the motion as set forth below. In addition, as set forth in the OST, counsel for Movant must address why this motion could not have been filed sooner. (The OST also directed Movant to address attorney fees; but that direction was erroneous - any issue of attorney fees is between Movant and counsel, and is of no concern to this Court.)

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Movant's assertion that the automatic stay does not apply is unsupported

Movant seeks relief under 11 U.S.C. 362(b)(22) & (l), but those statutory provisions require that a "lessor has obtained[,] before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor," and there is no evidence of such a judgment.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge

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CONT... **Jesus R Fernandez**

Chapter 13

Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Jesus R Fernandez

Chapter 13

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jesus R Fernandez

Pro Se

Movant(s):

Williams L. Jurado

Represented By
Bryn C Deb

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:14-14611 Joyce Elaine Durden

Chapter 13

#29.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/18/18

REVERSE MORTGAGE FUNDING LLC
vs
DEBTOR

Docket 59

Tentative Ruling:

Tentative Ruling for 1/8/19:

Appearances required. At the 12/18/18 hearing, this Court continued this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following.

(a) HUD regulation

Movant states that relief from stay is appropriate because HUD regulations require compliance via submission of the Occupancy Certificate. This Court was not provided with copies of such HUD regulations, or citations to them.

(b) Grounds for foreclosure under deed of trust

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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT...

Joyce Elaine Durden

Chapter 13

It is unclear whether failure to supply the Occupancy Certificate constitutes grounds for foreclosure under the deed of trust. What is Movant's basis for that assertion?

(c) Cost of Forced Place Insurance

Movant alleges that it incurred costs of \$4,638 for Forced Placed Insurance due to Debtor's failure to provide the Occupancy Certificate. This Court was not provided with evidence that this is the price of insurance.

(d) Debtor's untimely opposition

One week after the opposition deadline, Debtor filed an opposition stating that the Occupancy Certificate has been provided and that insurance advances will be cured (dkt. 61). Why was Debtor's opposition not timely filed?

(e) Adequate protection order?

The parties should be prepared to address whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joyce Elaine Durden

Represented By
Thomas B Ure

Movant(s):

Reverse Mortgage Funding, LLC

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:15-11521 Alma Jean Anderson

Chapter 13

#30.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/6/18, 11/27/18

PROF-2013-S3 LEGAL TITLE TRUST II
VS
DEBTOR

Docket 66

Tentative Ruling:

Tentative Ruling for 1/8/19 (same as for 11/27/18):

Appearances required. At the request of the parties, this Court continued this matter for a possible adequate protection order (dkt. 69, dkt. 71). There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alma Jean Anderson

Represented By
William J Smyth
Stephen S Smyth

Movant(s):

PROF-2013-S3 Legal Title Trust II,

Represented By
Robert P Zahradka
John D Schlotter

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CONT... Alma Jean Anderson

Chapter 13

Dane W Exnowski
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:16-10138 Wayne Leslie Harpe

Chapter 13

#31.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/16/18, 11/27/18

U.S. BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 36

Tentative Ruling:

Tentative Ruling for 1/8/19 (same as for 11/27/18 and 10/16/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current, (b) the alleged discrepancy in the amounts Debtor paid to SPS, and (c) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 38).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Wayne Leslie Harpe

Represented By
Nima S Vokshori

Movant(s):

U.S. Bank, National Association, as

Represented By
Merdaud Jafarnia

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10:00 AM

CONT... Wayne Leslie Harpe

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:16-13341 Jonathan Tolentino Puerto

Chapter 13

#32.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/16/18, 11/27/18

CARRINGTON MORTGAGE SERVICES, LLC
VS
DEBTOR

Docket 46

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Jonathan Tolentino Puerto

Represented By
Onyinye N Anyama

Movant(s):

Carrington Mortgage Services, LLC

Represented By
Erin M McCartney
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:17-11281 Muriel Ann Carr

Chapter 13

#33.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/11/18

CHAMPION MORTGAGE COMPANY
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Movant's supplemental papers (dkt. 37) assert debts for (1) reimbursement for paying real estate taxes of \$9,851.79 and (2) reimbursement for force placed insurance of \$3,912 (2 x \$1,956). The tentative ruling is (1) to require Debtor to pay the tax-related debt via a motion to modify her confirmed chapter 13 plan to amortize that debt over the remaining term of the plan, and (2) to pay the insurance-related debt via a standard adequate protection order ("APO").

(1) Real estate taxes

Debtor argues (dkt. 41) that her chapter 13 plan was intended to include when it listed movant (or its predecessor in interest) with a debt of \$33,000 (dkt. 15, confirmed by dkt. 22). But it appears that Debtor listed the wrong party with respect to taxes.

According to Movant, it did not pay those taxes until many months postpetition, on 8/28/28 (see dkt. 37, para. 20), so as of the petition date the debt was owed to the tax authorities, not Movant. Therefore Debtor should have listed the tax authorities in her chapter 13 plan.

Because Debtor did not do so, it appears that those tax debts went unpaid until Movant paid them. Meanwhile, as provided in the confirmation order (dkt. 22), Movant's proof of claim (no. 2-1) controls the monthly

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10:00 AM

CONT...

Muriel Ann Carr

Chapter 13

distributions by the Chapter 13 Trustee, and that proof of claim apparently did not include the taxes (it is for \$20,085.53, which Debtor concedes is substantially less than the \$33,000 estimated in her plan).

Based on the foregoing, it appears that the best way to restore the parties to the position they would have been if Debtor had correctly included the tax authorities in her plan is to require Debtor to file a motion to modify her plan to amortize the tax-related debt, with interest payable to Movant at the contract rate, over the remaining term of the chapter 13 plan. The tentative ruling is that Debtor must file such a motion in time to be self-calendared for hearing on the chapter 13 calendar on 2/21/19 at 8:30 a.m.

(2) Insurance

The force placed insurance appears to be for postpetition periods (and paid by Movant postpetition). Accordingly, it is a postpetition default, and a standard six month APO appears to be the appropriate remedy (with the usual cure period of 14 days after any default under the APO, and a maximum of three opportunities for any such cure). The tentative ruling is to direct Movant to prepare and lodge that APO within seven days after this hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

At the hearing on 11/27/18 this Court was persuaded to continue this matter as Debtor appeared to contest the tentative ruling and inform the Court that the property is insured. Counsel for Movant informed the Court that a declaration re insurance coverage for past period was required.

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they have resolved their issues re insurance coverage.

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Hearing Room 1545

10:00 AM

CONT... Muriel Ann Carr

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Muriel Ann Carr

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Muriel Ann Carr

Chapter 13

Julius Johnson

Movant(s):

Champion Mortgage Company

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:17-14054 Tracy L. Carnes

Chapter 13

#34.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 31

Tentative Ruling:

Tentative Ruling for 1/8/19 (same as for 11/27/18)

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tracy L. Carnes

Represented By
Barry E Borowitz

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Tracy L. Carnes

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:17-17141 Catalina Mejorado Vicia

Chapter 13

#35.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/9/18, 11/27/18

HSBC BANK USA, NATIONAL ASSOC
VS
DEBTOR

Docket 42

Tentative Ruling:

Tentative Ruling for 1/8/19 (same as for 11/27/18 and 10/9/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 46, 49).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Catalina Mejorado Vicia

Represented By
Stella A Havkin

Movant(s):

HSBC Bank USA, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Catalina Mejorado Vicia

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:17-19398 Araceli A Castro

Chapter 13

#36.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/14/18, 9/18/18, 10/16/18, 11/27/18

U.S. BANK, N.A.
vs
DEBTOR

Docket 28

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Araceli A Castro

Represented By
Thomas B Ure

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:17-19469 Maria Dilcia Serrano

Chapter 13

#37.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/18/18, 10/16/18, 11/27/18

BANK OF AMERICA, NA
vs
DEBTOR

Docket 35

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Maria Dilcia Serrano

Represented By
Raymond Perez

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:17-22633 Alejandro Hernandez Castanon and Guadalupe Griselda

Chapter 13

#38.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/10/18, 9/18/18,11/6/18, 12/4/18

HSBC BANK USA, N.A.
vs
DEBTOR (S)

Docket 42

Tentative Ruling:

Tentative Ruling for 1/8/19 (same as for 12/4/18)

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has authorized the sale of the subject property (see Order, dkt. 68). The parties should be prepared to provide the Court with information re the status of the sale, and any other matters relevant to this motion for relief from the automatic stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has authorized the sale of the subject property (see Order, dkt. 58)

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Central District of California
Los Angeles
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... **Alejandro Hernandez Castanon and Guadalupe Griselda** **Chapter 13**

subject to certain conditions requested by the secured creditor. Since then, Debtor has filed a new motion for authority to sell real property (dkt. 63). The parties are directed to address whether this motion should be granted, whether the hearing should be further continued to permit the sale of the property to close, or any other matters relevant to the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 7/10/18 this Court was persuaded to continue this matter for the parties to attempt to negotiate an agreed adequate protection order. No such order has been lodged, but meanwhile this Court has authorized the sale of the subject property (see Order, dkt. 58) subject to certain conditions requested by the secured creditor. The parties are directed to address whether this hearing should be further continued to permit the sale of the property to close, or any other matters relevant to the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18

Grant as provided below. Appearances are not required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Alejandro Hernandez Castanon and Guadalupe Griselda

Chapter 13

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alejandro Hernandez Castanon

Represented By
Jacqueline D Serrao

Joint Debtor(s):

Guadalupe Griselda Inda

Represented By
Jacqueline D Serrao

Movant(s):

HSBC Bank USA, N.A.

Represented By
Sean C Ferry
Theron S Covey

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Alejandro Hernandez Castanon and Guadalupe Griselda

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

2:18-18060 Magdalena Avila

Chapter 13

#39.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 11/27/18, 12/4/18

WHEELS FINANCIAL GROUP, LLC
vs
DEBTOR

Docket 24

Tentative Ruling:

Tentative Ruling for 1/8/19 (same as for 12/4/18, 11/27/18)

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 26).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

WHEELS FINANCIAL GROUP,

Represented By
Sheryl D Noel

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

10:00 AM

CONT... Magdalena Avila

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 8, 2019

Hearing Room 1545

11:00 AM

2:15-10008 Sullivan Green Cars, LLC

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Diane C. Weil, Chapter 7 Trustee]

Docket 55

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sullivan Green Cars, LLC

Represented By
Edward P Kerns

Trustee(s):

David A Gill (TR)

Represented By
John N Tedford

Diane C Weil (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

11:00 AM

2:15-10008 Sullivan Green Cars, LLC

Chapter 7

#2.00 Hrg re: Application for Compensation First and Final Application for Compensation and Reimbursement of Expenses
[Filed by Danning, Gill, Diamond & Kollitz, LLP, as General Counsel to Chapter 7 Trustee]

Docket 45

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sullivan Green Cars, LLC

Represented By
Edward P Kerns

Trustee(s):

David A Gill (TR)

Represented By
John N Tedford

Diane C Weil (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#3.00 Hrg re: Motion for Leave to File
First Amended Complaint

Docket 62

Tentative Ruling:

Grant, with the proviso that because only the redacted version of the motion and the proposed amended complaint have been made available to this Court (see dkt. 62), the motion is being granted only because it is unopposed. Movant is cautioned that the proposed amended complaint must be filed both in a redacted version (available to the public on the docket) and in an unredacted version (viewable only by this Court). Movant is responsible for following the applicable rules and procedures for such filings. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

11:00 AM

CONT... David MacMillan

Chapter 7

Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

11:00 AM

2:18-15867 Andrew Mark Anderson

Chapter 13

Adv#: 2:18-01348 Strategic Funding Source, Inc. v. Anderson

#4.00 Status conference re: Complaint to determine
nondischargeability of debt

Docket 1

Tentative Ruling:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 5) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative

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Los Angeles
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11:00 AM

CONT... Andrew Mark Anderson

Chapter 13

ruling is to set a deadline of 1/22/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 11/2/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 4/19/19.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 2/12/19.

Continued status conference: 2/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrew Mark Anderson

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

11:00 AM

CONT... Andrew Mark Anderson

Chapter 13

D Justin Harelik

Defendant(s):

Andrew Mark Anderson

Pro Se

Plaintiff(s):

Strategic Funding Source, Inc.

Represented By
Jeannie Kim

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 8, 2019

Hearing Room 1545

11:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#5.00 Cont'd hrg re: Motion for Issuance of Order Directing Amos Q. Wellington, Kousha Berokim and Berokim & Duel P.C. to Show Cause Why They Should Not Be Held in Civil Contempt of Court fr. 11/27/18

Docket 102

Tentative Ruling:

Tentative Ruling for 1/8/19:

Grant as provided below. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The tentative ruling is to issue an order granting the following relief, based on the record before this Court (see dkt. 102, 104, 108, 111, 116, 122, 124):

(1) Contempt: holding each of (a) Amos Wellington, (b) Kousha Berokim, Esq., and (c) Berokim & Duel P.C. (collectively, "Respondents") in civil contempt;

(2) Damages: awarding Movant **\$6,467.60** in fees and expenses (see dkt. 111, 116, 126 p.7:14-21), payable by Respondents jointly and severally; without prejudice to Movant seeking any additional awards of fees and costs not included in the foregoing amounts;

(3) Injunctive relief: (a) enjoining Respondents from pursuing any claims based on Madison's Note (as defined in the Motion) and/or that is related to the Hauser property, and (b) directing Respondents, by mandatory injunction, to follow all directions of the Chapter 7 Trustee, unless they seek an obtain an order of this Court excusing them from such directions, with respect to the Lawsuit (as defined in the motion, dkt. 102);

(4) Void acts: holding that, under binding precedent of the Court of Appeals for the Ninth Circuit, all acts taken in violation of the automatic stay, including all proceedings in the Lawsuit since the filing of the bankruptcy

**United States Bankruptcy Court
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Los Angeles
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11:00 AM

CONT... **Letitia Louise Wellington**

Chapter 7

petition on 11/4/2017 are void *ab initio* (see, e.g., *In re Gruntz*, 202 F.3d 1074, 1082 (9th Cir. 2000) ("actions taken in violation of the automatic stay are void. Further, judicial proceedings in violation of the automatic stay are void.") (citations and internal quotation marks omitted); and

(5) Further proceedings: setting a status conference for 2/5/19 at 11:00 a.m. to address any outstanding issues such as collection procedures, any additional coercive or compensatory measures, etc., subject to any earlier or later self-calendared date that Movant is hereby authorized to set by 14 days' notice served on Respondents via U.S. mail and filed with this Court; and

(6) Correction of record: directing Mr. Berokim, no later than 1/15/19, to file a corrected version of his declaration (dkt. 124), which is missing the first page of his delcaration (the chambers copy included the first page, but the filed version, which constitutes the official record, lacks the first page).

Reasons:

Assuming solely for purposes of this tentative ruling (a) that Respondents were acting in good faith in preferring a different course of action to what the Chapter 7 Trustee was proposing and (b) truly had doubts about the Chapter 7 Trustee's interpretation of the Bankruptcy Code, those are insufficient grounds to violate the automatic stay. As stated by the Court of Appeals:

"[W]illful violation" does not require a specific intent to violate the automatic stay. Rather, the statute provides for damages upon a finding that the defendant knew of the automatic stay and that the defendant's actions which violated the stay were intentional. ... [And] a party with knowledge of bankruptcy proceedings is charged with knowledge of the automatic stay. [*In re Dyer*, 322 F.3d 1178, 1191 (9th Cir. 2003) (citation and internal quotation marks omitted)]

The Chapter 7 Trustee cited authority to Respondents that the automatic stay applied; Respondents have not cited contrary authority, so they have waived and forfeited any argument that the stay was inapplicable. In any event, this Court is persuaded that the automatic stay did apply because property of the bankruptcy estate is defined very broadly and includes any claims that a debtor has against third parties, including community property claims, claims for setoff, etc. See 11 U.S.C. 541.

Alternatively, supposing for the sake of argument that there were any question as to Respondents' willfulness, their excuse is inconsistent with the

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Hearing Room 1545

11:00 AM

CONT... **Letitia Louise Wellington**

Chapter 7

written record and therefore is not credible. Respondents assert that they did not wish to follow the Chapter 7 Trustee's directions to dismiss their Lawsuit (without prejudice) because of concerns that this would mean any claims were barred by the applicable statutes of limitation. See dkt. 124, p.3:13-16. But, first, Respondents never raised that issue until now, and second, if they had raised it and the Chapter 7 Trustee had not been persuaded, Respondents could have sought relief from this Court, rather than unilaterally continuing to violate the automatic stay. For example, they could have filed a motion for relief from the automatic stay, or a motion to compel the Trustee to abandon the claims asserted in the Lawsuit, or an adversary proceeding seeking declaratory relief, or any other appropriate proceeding.

Because Respondents chose not to seek any such relief from this Court, but instead to continue in violation of the automatic stay, the Chapter 7 Trustee was forced to incur the expense of preparing and filing the Motion for Contempt (dkt. 102). See *Dyer*, 322 F.3d at 1192 (persons who violate automatic stay have "an affirmative duty to remedy" that violation) (citation omitted). The Trustee has provided evidence of the resulting attorney fees, which are compensable as "actual damages" under 11 U.S.C. 362(k).

For all of the foregoing reasons, the tentative ruling is to award damages and other relief as set forth above. Note: (i) The tentative ruling is to accept the parties' late-filed documents (dkt. 124, 126), so as to reach the merits and avoid further delay; and (ii) the requirement at the beginning of this tentative ruling is not an invitation to Respondents to repeat their (unpersuasive) arguments. Rather, this Court is requiring appearances so as not to risk repeating the situation on 11/27/18, in which counsel for the Trustee was not informed that Respondents would be contesting the tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Grant all of the requested relief, as further set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The tentative ruling is to issue an order, based on the record before this Court (see dkt. 102, 104, 108, 111):

(1) holding each of (a) Amos Wellington, (b) Kousha Berokim, Esq., and (c) Berokim & Duel P.C. (collectively, "Respondents") in civil contempt;

(2) awarding Movant \$5,215 in fees plus \$202.50 in costs for a total of \$5,417.50, payable by Respondents jointly and severally; without prejudice to Movant seeking any additional awards of fees and costs as they may be incurred;

(3) directing Respondents, by mandatory injunction, to take all steps necessary or advisable to dismiss their Lawsuit (as defined in the motion, dkt. 102);

(4) holding that, under binding precedent of the Court of Appeals for the Ninth Circuit, all acts taken in violation of the automatic stay, including all proceedings in the Lawsuit since the filing of the bankruptcy petition on 11/4/2017 are void *ab initio*; and

(5) setting a status conference for 1/15/19 at 11:00 a.m. to address any outstanding issues such as collection procedures, any additional coercive or compensatory measures, etc., subject to any earlier or later self-calendared date that Movant is hereby authorized to set by 14 days' notice served on Respondents via U.S. mail and filed with this Court.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 7

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

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2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

#6.00 Cont'd status conference re: Complaint to determine dischargeability of debt pursuant to sections 523 and 727 of the United States Bankruptcy Code
fr. 9/4/18,10/9/18, 11/27/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19.
Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be

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continued? Should this adversary proceeding be dismissed for lack of prosecution?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. Cf. adv. dkt. 7 (belated request for mediation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any

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outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By
Charles J Brash

Plaintiff(s):

Kieran Graner

Represented By
Stephen B Goldberg

Sharon Graner

Represented By
Stephen B Goldberg

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 5

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:15-11029 R&J Limited Partnership and JRJ Limited Partnership

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/03/15, 03/31/15, 04/28/15, 05/26/15, 06/09/15,
07/07/15, 07/28/15, 09/01/15, 09/22/15, 11/17/15, 12/15/15,
01/19/16, 02/23/16, 03/22/16, 05/31/16, 07/19/16, 09/27/16,
11/29/16, 01/10/17, 04/25/17, 06/20/17, 10/17/17, 01/30/18,
04/10/18, 05/08/18, 06/07/18, 07/10/18, 08/07/18, 9/4/18,
10/9/18, 11/6/18

Docket 9

Tentative Ruling:

Tentative Ruling for 1/8/19:

Continue to 3/26/19 at 1:00 p.m., with a brief status report due by 3/12/19.
Appearances are not required on 1/8/19.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Reports (dkt. 338, 341) and Status Report (dkt. 342). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Continue to 1/8/19 at 1:00 p.m., with a brief status report due by 1/2/19.
Appearances are not required on 11/6/18.

This Court has reviewed the debtor's latest filed documents, including its Monthly Operating Report (dkt. 335) and Status Report that includes a description of the extension of the Escrow Deadline to 12/31/18 (dkt. 337,

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p.4:2-8). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 1:00 p.m., with a brief status report due by 10/23/18.
Appearances are not required on 10/9/18.

This Court has reviewed the debtor's latest filed documents, including its Monthly Operating Report (dkt. 332) and Status Report (dkt. 333). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Continue to 10/9/18 at 1:00 p.m., with a brief status report due by 9/25/18.
Appearances are not required on 9/4/18.

This Court has reviewed the debtor's latest filed documents, including its Monthly Operating Report (dkt. 329) and Status Report (dkt. 330). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/7/18:

Continue to 9/4/18 at 1:00 p.m., with a brief status report due by 8/21/18.
Appearances are not required on 8/7/18.

This Court has reviewed the debtor's latest filed documents, including its Monthly Operating Report (dkt. 325) and Status Report (dkt. 326). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18:

Continue to 8/7/18 at 1:00 p.m. Appearances are not required on 7/10/18.

This Court has reviewed the debtor's latest filed documents, including its Monthly Operating Report (dkt. 322) and Status Report (dkt. 324). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 6/7/18:

Continue to 7/10/18 at 1:00 p.m. Appearances are not required on 6/7/18.

This Court has reviewed the debtor's latest filed documents regarding its cash flow and sale of property (dkt. 316, 317, 319, 320). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

Continue to 6/7/18 at 1:00 p.m. Appearances are not required on 5/8/18.

This Court has reviewed the debtor's status report (dkt. 313), notice of pending sale for the Broadway property (dkt. 314), and latest monthly operating report (dkt. 312). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Continue to 5/8/18 at 1:00 p.m. Appearances are not required on 4/10/18.

This court has reviewed the debtor's status report (dkt. 311) and monthly operating reports (dkt. 309, 310), and this court is not aware of other issues that would warrant a status conference at this time.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This court has reviewed the debtor's status report (dkt. 304) and the notice (dkt. 307) filed by Bayview Loan Servicing, LLC ("Bayview"). The parties should be prepared to address the issues raised by those papers.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/17/17:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This court has reviewed the debtor's post-confirmation status report (dkt. 298) and has no issues to raise sua sponte at this time. The tentative ruling is to continue this status conference to 1/30/18 at 1:00 p.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for

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disposition at this hearing.

Chapter 11

Tentative Ruling for 6/20/17:

Continue to 10/17/17 at 1:00 p.m. in view of the debtors' status report (dkt. 292). Appearances are not required on 6/20/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 4/25/17:

Continue to 6/20/17 at 2:00 p.m., to provide the debtors with time to seek entry of a final decree in this case, or such other remedies as may be necessary or appropriate, in view of the confirmed Joint Chapter 11 Plan (dkt. 270) and the unopposed motions to approve the compromise with Butler Capital (dkt. 277-80). Appearances are not required on 4/25/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov, "Judges," "Bason, N.," "Instructions/Procedures," "Procedures;" see the section labeled "Tentative rulings").

[PRE-CONFIRMATION TENTATIVE RULINGS OMITTED]

dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

R&J Limited Partnership

Represented By
Vanessa M Haberbush
David R Haberbush

JRJ Limited Partnership

Represented By
Vanessa M Haberbush

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David R Haberbush

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2:18-22059 JDS Hospitality Group LLC

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/17/18, 10/23/18, 11/27/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Debtor's status report (dkt. 72) attempts to put the best face on a dismal record of recent operations. Should this Court set deadlines to sell the estate's property/business, or impose other performance metrics and establish consequences for failure to satisfy those metrics?

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Appearances required.

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(1) Current issues

(a) Cash collateral motion (dkt. 4). This Court has reviewed the supplemental declarations of Kenneth Chung and Rhonda Chung (dkt. 38). Those declarations provide that in the event Debtor lacks the funds necessary to make the required property tax payments, Rhonda Chung will "personally pay any short fall [o]f the Debtor to pay these taxes or, any portion of those taxes, if any, that has not otherwise been approved by the Court as an authorized Cash Collateral expense." (Rhonda Chung decl, para. 7). Would these funds be a loan or a gift? Is Rhonda Chung financially able to provide such a sum?

(b) Creditor First Choice Bank reporting requests: In its opposition to the cash collatera motion, First Choice Bank requests that Debtor be required to provide additional reporting to insure cash collateral is not misued (dkt. 58). Does Debtor object to any of these recommendations? If so, on what grounds?

(c) Order on cash collateral. Debtor is directed to lodge a proposed final order approving the use of cash collateral, incorporating the terms of the interim order plus any additional requirements as noted above, via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Utility motion. Debtor's status report (dkt. 49) states that this motion will be withdraw, either orally or in writing. Debtor should file a written withdrawal, so that the docket is clear.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/15/19 at 1:00 p.m., with a brief status report due 1/8/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... JDS Hospitality Group LLC

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/23/18:

Appearances required.

(1) Current issues

(a) Cash collateral motion (dkt.4). Subject to any objections at the hearing, the tentative ruling is to authorize the use of cash collateral to a limited extent, on a further interim basis, with a final hearing at the same time as the continued status conference (see below). What specific use of cash is authorized will depend on any supplement filed prior to the hearing and how the debtor and other parties in interest address the following issues: (i) payment of employment taxes and other withholdings, (ii) payment of income taxes, (iii) payment of sales taxes on room rentals, as well as on food, beverages, and other taxable items, and (iv) adequacy of cash flow, both actual and projected.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., with a status report on the local form due 11/13/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Appearances required.

Chapter 11

(1) Current issues

(a) Payroll motion (dkt. 5). As noted in this Court's order setting this hearing (dkt. 10), this Court is concerned about whether this is a self-created emergency. In addition, the parties should be prepared to address the jobs of each person who is proposed to be paid (dkt. 7, Ex.6), whether any of them are "insiders" (11 U.S.C. 101(31)), and how they will be paid if the checks do not clear and other sources of revenue do not come through. Subject to adequately addressing those issues, and (1) confirming notice per this Court's order shortening time (dkt. 10), (2) addressing this Court's concerns in that order, and (3) any objections at the hearing, the tentative ruling is to grant this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt.4). The tentative ruling is to grant this motion, subject to the caveats set forth in the tentative ruling for calendar no. 2 (10/17/18 at 9:00 a.m.).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., *brief* status report due 11/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang

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2:18-17941 Patricia Ann Theus

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#4.00 Cont'd Status Conference re: Chapter 11 Case
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Docket 7

Tentative Ruling:

Tentative Ruling for 1/8/19:

Continue as set forth below. Appearances are not required on 1/8/19.

(1) Current issues.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Report (dkt. 67). This Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: file by 1/18/19 (see dkt. 63) using the forms required by Judge Bason and lodge a proposed order authorizing service of those documents and setting a combined hearing on final approval of the disclosure statement and confirmation of the plan (DO NOT SERVE yet, except on the U.S. Trustee - this Court will review the filed documents and then either issue the proposed order or establish other procedures).

(c) Continued status conference: 2/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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CONT... Patricia Ann Theus

Chapter 11

appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor's September Monthly Operating Report (dkt. 50), lists a total of \$2,900 for "personal expenses." What are these expenses?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/8/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor still has not lodged interim or final orders approving the use of cash collateral, or a final order approving her budget. Why not?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 42) and the other filed documents in this case.

(a) Motion of U.S. Trustee ("UST") to dismiss or convert (dkt. 21). The debtor claims to have come into compliance (dkt. 41). Does the UST have any outstanding compliance issues?

(b) Budget motion (dkt. 15) and supplemental declaration of non-debtor spouse Jose M. Juarez (dkt. 37). Grant on a final basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Cash collateral motion (dkt. 14, 16). The adopted tentative ruling for the 8/14/18 hearing (reproduced at calendar no. 7, 9/18/18 at 1:00 p.m.) directed the debtor to file an order granting the motion on an interim basis. No such order has been lodged. Why not? Subject to a satisfactory answer, the tentative ruling is to grant the motion on a final basis, on the same terms as it was granted on an interim basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 17) and the other filed documents in this case.

(a) Budget motion (dkt. 15). Grant on an interim basis, with a final hearing concurrent with the continued status conference (see below), and a deadline of 8/21/18 to file declaration(s) regarding the income of the debtor's spouse (see below). *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Debtor's spouse's income. The debtor's bankruptcy Schedule I reports that the debtor's spouse is a self-employed construction contractor, but that the spouse only earns \$1,500/mo. in net income. Dkt. 1, at PDF p.32, line 8a. This Court takes judicial notice that there is considerable construction activity in this geographic area. Why is that income not higher?

In addition, there is no attached statement showing gross income, expenses, and the calculation of net income. That is contrary to the instructions for line 8a, and to this Court's order that for reporting purposes any spouse is to be treated as equivalent to the debtor (dkt. 6, para.3).

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(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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2:18-17217 Benjamin Saedian

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#5.00 Cont'd hrg re: Application By Debtor And Debtor In Possession to employ Law Offices Of Raymond H. Aver, A Professional Corporation, As General Insolvency Counsel" fr. 11/27/18

Docket 26

Tentative Ruling:

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the status conference (calendar no. 6, 1/8/19 at 1:00 p.m.)

Tentative Ruling for 11/27/18:

Please see the tentative ruling for the status conference (calendar no. 4, 11/27/18 at 1:00 p.m.)

Party Information

Debtor(s):

Benjamin Saedian

Represented By
Raymond H. Aver

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Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
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Docket 9

Tentative Ruling:

Tentative Ruling for 1/8/19:

Continue as set forth below, so that Debtor's proposed counsel can further supplement the employment application. Appearances are not required on 1/8/19.

(1) Current issues: professionals

Debtor's latest declaration in support of the application to employ the law offices of Raymond H. Aver (dkt. 55) states that Debtor's friend, Mr. Michael Baradarian (the "Funder"), has agreed to pay the retainer and he "may gift all or a portion of the postpetition retainer." Dkt. 55, p.2:13-14 (emphasis added). See *also* dkt. 26, 32, 49, 55. That is inadequate.

What would the non-gift portion be? A loan (unsecured, presumably)? An investment (some sort of arrangement akin to an equity infusion into a business)? When and how would those things be decided?

The lack of complete disclosure by Debtor and proposed counsel only cause this Court to have additional questions. This Court's concerns, and tentative ruling about what needs to be disclosed, are as follows.

A third party who funds a retainer for the debtor generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, proposed counsel should be prepared to address the following.

(a) Connections. What are all of the connections between the Funder, on the one hand, and the debtor's proposed counsel or any of the other types of persons listed in FRBP 2014, on the other hand -- *e.g.*, have there been

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any economic or business or personal connections between the Funder and proposed counsel, or the debtor, or any creditor or other party in interest, or their respective attorneys or accountants?

(b) Terms. What are the precise agreements, understandings or expectations regarding the funds -- e.g., are the funds a loan, a gift, an investment, or something else?

(c) Informed consent of funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? Who provided such advice: independent counsel, or the debtor's proposed counsel? Has the Funder given informed consent? Are those things in writing?

(d) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing?

(e) Other considerations. Has proposed counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

(f) Deadline. The tentative ruling is to set a deadline of 1/22/19 for Debtor to file declarations by (i) Debtor, (ii) the Funder, and (iii) proposed counsel addressing all of the foregoing issues.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

(1) Current issues.

(a) Application to employ Raymond H. Aver (dkt. 26) - The parties should be prepared to discuss whether proposed counsel is disinterested given that they are general counsel to Rabenu Enterprises, LLC (see U.S. Trustee's opposition, dkt. 32, and Debtor's reply, dkt. 47).

(b) Source of funds re retainer agreement - In their opposition, the U.S. Trustee raised the question of what the source of the funds for Debtor's retainer agreement is (dkt. 32). Debtor's reply provides that the source of the funds are "Saeedian's and his spouse's earnings and/or contribution from third parties." (dkt. 47, PDF p. 11). Who is this third party? Would the funds be a gift or a loan?

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/8/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Continue as set forth below. Appearances are not required on 10/16/18.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 39) and has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

Tentative Ruling for 9/18/18:

Continue as set forth below. Appearances are not required on 9/18/18.

(1) Current issues. This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed the docket, the debtor's amended schedules (dkt. 33), and monthly operating report no. 1 (dkt. 20, for mo. ending 6/30/18). What is the \$660 "miscellaneous expense" reported on p.5? Why was that not explained in the MOR?

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/18/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 7/17/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 17) and the other filed documents in this case.

(a) Secured claims. Why does the debtor's bankruptcy Schedule D

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(dkt. 18 at PDF p.11) list \$0 in secured claims (not even a disputed claim?) even though the status report (dkt. 17) states that the case was filed to stop foreclosure? How can creditor and this Court rely on the accuracy of the bankruptcy schedules in view of such inconsistency?

(b) Income. The debtor's bankruptcy Schedule I (dkt. 18 at PDF pp.19-20) lists a total of \$100/mo. in income taxes, medicare and social security. It lists \$0 for net income from operating a business (line 8a) despite listing multiple businesses with alleged income: "YB Design, Inc.," "Management of Rabenu Enterprises, LLC," "Babysitting services," and "Cosmetic Sales." It fails to comply with the instructions in line 8a to "Attach a statement for each ... business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." The debtor appears to be ignoring the requirements to provide disclosure as to his own income and expenses and, under this Court's order (dkt. 9, para.3), to provide equal disclosure with respect to his spouse and their businesses. How can creditors and this Court rely on the accuracy of the bankruptcy schedules and future compliance with orders of this Court in view of such non-compliance?

(c) Deadline for compliance. The tentative ruling is to set a **deadline of 7/31/18** for the debtor to file amended bankruptcy schedules correcting not only the foregoing deficiencies that this Court has identified but also any other deficiencies that the debtor and his spouse and the debtor's counsel identify after carefully reviewing the documents that the debtor has filed. If in future this Court discovers other non-compliance with the debtor's obligations to provide accurate disclosures and to comply with this Court's orders, this Court may order the dismissal or conversion of this bankruptcy case, or other remedies.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 8/14/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

This court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Benjamin Saeedian

Represented By
Raymond H. Aver

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Courtroom 1545 Calendar

Tuesday, January 8, 2019

Hearing Room 1545

2:00 PM

2:18-11744 B&B Liquidating, LLC

Chapter 11

Adv#: 2:18-01334 Siena Lending Group, LLC v. Great American Group Advisory & Valuation

#1.00 Hrg re: Motion to Dismiss Adversary Proceeding

Docket 2

*** VACATED *** REASON: Order approving stipulation to cont'd hearing to 1/15/19 at 2:00 p.m. [dkt. 10]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B&B Liquidating, LLC

Represented By
Brian L Davidoff

Defendant(s):

Great American Group Advisory &

Represented By
Razmig Izakelian
Jennifer L Nassiri
Kenneth John Shaffer

Plaintiff(s):

Siena Lending Group, LLC

Represented By
Leo D Plotkin

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Adv#: 2:18-01334 Siena Lending Group, LLC v. Great American Group Advisory & Valuation

#2.00 Status conference re: Removal

Docket 1

*** VACATED *** REASON: Continue to 1/15/19 at 2:00 p.m. per the parties' joint status report (adv. dkt. 23).

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

B&B Liquidating, LLC

Represented By
Brian L Davidoff

Defendant(s):

Great American Group Advisory &

Represented By
Razmig Izakelian
Jennifer L Nassiri
Kenneth John Shaffer

Plaintiff(s):

Siena Lending Group, LLC

Represented By
Leo D Plotkin

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#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/22/18, 3/20/18, 5/1/18, 5/29/18, 6/12/18,
08/14/18, 9/18/18, 11/6/18, 12/11/18

Docket 19

Tentative Ruling:

Tentative Ruling for 1/8/19:

Continue to 1/15/19 at 2:00 p.m. to be concurrent with upcoming hearings in the pending adversary proceeding (Adv. No. 2:18-ap-01334-NB).

Appearances are not required on 1/8/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues

(a) Fee applications

Grant in full:

(i) Debtor's counsel: \$291,117.00 in fees and \$825.60 in expenses for a total of \$291,942.60 to Greenberg Glusker Fields Claman & Machtinger LLP (dkt 257);

(ii) Debtor's consultants: \$139,590.00 in fees to NV Consulting Services (dkt. 259);

(iii) Committee counsel: \$120,080.00 in fees and \$2,058.69 in expenses for a total of \$122,138.69 to Pachulski Stang Ziehl & Johnes LLP

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(dkt 256); and

(iv) grant all additional relief requested in the applications (e.g., directing Siena to pay the balance of the carve-outs).

(b) Declarations of Andrew S. Conway (dkt. 267) and Nellwyn Voorhies (dkt. 268) Re: Conditional Dismissal

The parties should be prepared to address (i) whether the purported past due October 2018 rents and charges have been paid to Twelve Oaks Mall, LLC, (ii) whether the balance purportedly owed to noticing agent Donlin, Recano & Co., Inc. have been paid, and (iii) whether all other conditions for dismissal in this Court's order (dkt. 254) have been or will be satisfied, and whether this Court should set briefing schedules or establish any other procedures to resolve whatever issues might be outstanding.

(c) B&B Bachrach, LLC Motion for Final Decree (dkt. 324)

The tentative ruling is to grant the Motion for Final Decree and enter an order closing that case.

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: Timely served (dkt. 155, 163, 167).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: Continue to 1/8/19 at 2:00 p.m., in view of the conditions involved in the slightly deferred dismissal requested by Debtor and the Committee. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 12/11/18:

This court anticipates posting a tentative ruling at a later time.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Revised Tentative Ruling for 11/6/18:

(1) Dismiss this case, and (2) grant the landlords' motion to compel payment of their administrative claims, all subject to the conditions set forth below.

Appearances required.

(1) Motion to dismiss case etc. (dkt. 227); Siena-Opp. (dkt. 241); Great

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Am./GA-Ltd. Opp. (dkt. 243); Debtor reply (dkt. 245); Committee reply (dkt. 247)

(a) Dismiss, but retain jurisdiction. The tentative ruling is to grant Debtor/Committee's motion, including (i) dismissal of this case, after a relatively short delay (as they request), (ii) issuance of an order compelling payment by Siena of the "carveout" balance of professional fees and other specific administrative expenses (subject to the usual standards to prove the allowable dollar amounts), and (iii) retention of jurisdiction to the maximum extent permitted by law. That retention of jurisdiction includes the landlords' administrative claims against Siena (discussed below), as well as any disputes regarding whether Siena must share any future recoveries - the latter realistically boils down to the controversy over the 25%/75% division of any recoveries on "commercial tort claim[s]," so that is the only aspect of such sharing that will be discussed (although the retention of jurisdiction includes adjudication of any recovery-sharing disputes).

It would be uneconomical and inconvenient for the parties to have to litigate those landlord claims and recovery-sharing claims in a new forum, when this Bankruptcy Court already has great familiarity with those issues. In fact, it is not clear that any other forum would even have jurisdiction over such bankruptcy-specific issues.

It would also be unfair to all parties to make them litigate such issues in a new forum. In construing any ambiguities in the parties' stipulations and this Court's prior orders, it is essential to know the context in which those things happened, including both this case and the earlier bankruptcy case.

Finally, comity is not a concern. The bankruptcy issues predominate, and there is no impingement on the State courts' jurisdiction or authority.

For all of these reasons, retention of jurisdiction is appropriate. See *In re Carraher*, 971 F.2d 327, 328 (9th Cir. 1992) (approving post-dismissal jurisdiction after considering "economy, convenience, fairness and comity"); *In re Knew Weigh, LLC*, 576 B.R. 189, 202-04 (Bankr. C.D. Cal. 2017) (same, considering "(i) judicial economy, requiring consideration of efficiency of judicial resources; (ii) convenience, requiring consideration of the parties' litigation efforts and access to alternative forums; (iii) fairness, requiring consideration of the equity and circumstances of a particular case; and (iv) comity, requiring consideration of whether the state laws involved are complex such that they ought to be construed and applied by state trial courts and reviewed by state appellate courts").

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(b) Ripeness of 25%/75% issue. The tentative ruling is to reject the argument of Debtor and the Committee that any interpretation of the 25%/75% recovery-division issue is not ripe or should be deferred. True, Siena might not prevail in such claims, and it would not make sense to expend substantial time and money litigating respective shares of a recovery if those expenses would outweigh the present discounted value of the range of likely recoveries. But the issues have already been briefed, so the expense is minimal.

Nor does the fact that the parties have no actual dollar amounts in dispute, or claims for damages against each other, mean that it would be premature to decide the issues. To the contrary, the tentative ruling is that it is appropriate to address these issues now because Siena needs to know, before it invests in litigation, whether it will receive all recoveries or only 75% of them.

Siena is essentially seeking declaratory relief construing the 25%/75% recovery-sharing provision:

Declaratory relief is an equitable remedy distinctive in that it allows adjudication of rights and obligations on disputes regardless of whether claims for damages or injunction have arisen. In effect, it brings to the present a litigable controversy, which otherwise might only be tried in the future. [*In re Singh*, 457 B.R. 790, 798 (Bankr. E.D. CA. 2011) (citation and internal quotation marks omitted) (emphasis added).]

There must be an actual controversy, which is definite and concrete, and the matter must be within subject matter jurisdiction for this federal court. *Id.* All of those conditions are satisfied.

As an aside, this Court notes that sometimes declaratory relief requires an adversary proceeding, but the tentative ruling is that no adversary proceeding is required for the type of dispute at issue. See Rule 7001(9) (Fed. R. Bankr. P.) (adversary proceeding required for declaratory judgment "relating to any of the foregoing" types of relief in that Rule, such as dischargeability litigation). In any event, no party has argued that an adversary proceeding is required.

For all of these reasons, the tentative ruling is that it is appropriate to address the 25%/75% dispute now, rather than defer it to some future date.

(c) Interpretation of the 25%/75% language. Siena argues in effect (dkt. 241, p.2:8-27) that the parties' agreement to the 25%/75% split of any

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"commercial tort claim" only applied to claims held by the debtor - *i.e.*, derivative claims - and not to Siena's direct claims (for both alleged breach of contract and alleged torts) against the Great American appraisal entity. The tentative ruling is to agree.

Based on the operative language, and the context in which the parties were negotiating, it seems highly unlikely that Siena would have intended to share recoveries from any direct claims it might have. See dkt. 141, p.15, para.28; see *also* dkt. 241, p.3. It is typical for creditors' committees and debtors to argue that security interests do not extend to claims that could be described as "derivative": *e.g.*, avoidance actions that arise under the Bankruptcy Code. As this Court understands the theories behind such arguments, they would not apply to "direct" claims: those arguments are partly based on the limitations on secured claims under 11 U.S.C. 552, and partly based on whether security interests could attach at all to claims that only come into existence once the bankruptcy petition is filed. Those arguments do not apply to Siena's "direct" claims that exist independent of the Bankruptcy Code.

Accordingly, the tentative ruling is that the 25%/75% recovery-sharing provision does not apply to the claims set forth in Siena's existing complaint against the Great American entities.

(d) Notice by Siena. That said, it might be that the present litigation with the Great America entities will expand, or that future claims against them or the Tiger entity will include claims that might come within the 25%/75% recovery-sharing language. Accordingly, the tentative ruling is to grant the request of Debtor and the Committee that Siena be ordered to provide notice of any recoveries that might be subject to the 25%/75% language (or - although the possibility seems vanishingly remote - the language requiring a sharing of proceeds if Siena's debt is paid down below \$1.5 million).

(2) Starwood/Forbes motion re administrative rent (dkt. 225); Siena Opp. (dkt.239, 240); Starwood/Forbes response (dkt. 246, 248); Committee reply (dkt. 247)

(a) Background. It appeared from the start of this case that Siena's claim most likely would be under water, so it made sense that Siena would be primarily responsible for the expense of liquidating Debtor's assets, including administrative expenses. In particular, under prior orders of this Court, Siena is obligated to pay postpetition rents. See dkt. 220 (relief from stay order,

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with conditions); dkt. 49 (rejection procedures order); dkt.177 (Starwood notice of rejection as of 6/4/18); dkt.213 (Forbes notice of rejection as of 8/29/18); *but cf.* dkt. 237 (asserting lockout as of 8/27/18) *and* dkt. 246 (evid. obj.).

(b) Evidentiary objections. The tentative ruling is to sustain Siena's hearsay objection to the evidence attached to the Starwood/Forbes landlord motion (as to the calculation of rents allegedly owing). The supplemental declaration (dkt. 248) does not fully resolve the hearsay problem, although presumably the parties can establish the undisputed and disputed facts with greater specificity, through formal or informal discovery.

The tentative ruling is also to sustain the Forbes landlord's objection to Siena's evidence of a lockout on 8/27/18. Again, though, it should be possible to figure out and present the disputed and undisputed facts (although, given the dollar amount at stake, this particular subset of disputes might be more efficiently resolved by a quick compromise).

(c) Section 506(c). The tentative ruling is to reject Siena's argument under section 506(c). The terms to which the parties agreed, and this Court ordered, are that:

Siena shall not raise as a defense to [landlords' assertion of administrative rent expenses] that the landlords' remedy is limited to surcharging Siena's collateral, and shall pay any amounts that the Court determines Siena is required to pay the landlords within seven days [Dkt. 220, p.3, para.16.3].

Siena attempts to distinguish this language as applying only to its defenses, not to what the landlords have to prove. That is unpersuasive: the tentative ruling is that, both from the language itself and the context in which the parties were negotiating (that all administrative expenses very likely were for Siena's benefit due to its blanket lien), this language can only be interpreted to mean that, as long as a landlord meets the normal standards to establish its administrative expense, there is no additional burden to establish a benefit to Siena under section 506(c).

(d) Percentage rent. The tentative ruling is that, on the one hand, the starting point would be that percentage rent is rebuttably presumed to be included in what Siena would have to pay, because that is a part of every month's rent under the terms of the lease. In addition, any landlord's waiver of the anti-liquidation clause does not constitute a waiver of the percentage rent clause.

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On the other hand, the tentative ruling is that the liquidation sale context overcomes that presumption, and leaves the issue of the parties' intent undecided. Put differently, there is a genuine question whether rent of 20% of liquidation sale proceeds is what the parties contemplated.

A hypothetical landlord might expect that, as part of the enforcement of its rights under 11 U.S.C. 365(d), it should receive both minimum/base rent and percentage rent based on a normal month's level of sales. But such a landlord might expect either much less (*e.g.*, if its choice is between minimum/base rent for the month or \$0 with no new tenant in sight) or much more (*e.g.*, if the liquidation could be expected to increase sales volume and revenue enormously, perhaps the landlord would expect to be able to demand that in exchange for permitting a liquidation sale, at least if there is a sufficiently robust rental market to give the landlord leverage).

But from the record presented the tentative ruling is that there was no meeting of minds on the percentage rent issue. So the tentative ruling is that the analysis has to fall back to what rent is "reasonable." *In re Section 20 Land Group, Ltd.*, 261 B.R. 711, 717 (Bankr. M.D. Fla. 2000). *See also In re Silicon valley Telecom Exchange, LLC*, 284 B.R. 700, 706 (Bankr. N.D. Cal. 2002).

(e) Conclusion as to landlords' motions. The tentative ruling is to set a continued hearing (the same date as the continued status conference set forth below) to determine the dollar amount owed to each landlord. The deadline for each landlord to file and serve a declaration with supplemental evidence would be two weeks prior to that hearing, with any responsive declaration and evidence due one week prior.

The tentative ruling is to require evidence on the following issues: (i) calculations: more detail about the calculation of rents allegedly owing, (ii) vertical and horizontal evidence of market rents: Debtor's historical monthly additional rent (percentage of sales) for each of the subject locations, for every month in 2017 and in 2018 through store closing, as well as an average for each year, and evidence about current rental rates per square foot for any new or renewed leases in the same mall in 2018, to assist this Court in determining reasonable rents, and (iii) lockout date: proof whether lock-out date for the Forbes store actually occurred two days before rejection notice. The parties should be prepared to address whether expedited or regular discovery is necessary or appropriate; whether a different hearing date is preferable; and any other relevant issues.

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(3) Memorialization these tentative rulings, and lodging proposed orders incorporating them by reference

This Court intends to prepare and file a Memorialization of Tentative Rulings, with a copy of these tentative rulings for 11/6/18, which the parties can incorporate by reference in any proposed order, to the extent this Court adopts these tentative rulings at the hearing. The Committee is directed to lodge the proposed order on the motion for dismissal etc., and the Starwood/Forbes landlords are directed to lodge the proposed order on their motion to compel payment of rent.

(4) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: Timely served (dkt. 155, 163, 167).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: Continue to 12/11/18 at 2:00 p.m., in view of the slightly deferred dismissal requested by Debtor and the Committee. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/18/18:

Continue as set forth below. Appearances are not required on 9/18/18.

(1) Current issues. This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 2/16/18.

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(a) Bar date: Timely served (dkt. 155, 163, 167).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: Continue to 11/6/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Continue as set forth below. Appearances are not required on 8/14/18.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 203) and other relevant pleadings in this case.

(a) Siena r/s motion. Although the debtor requests that this status conference be continued to the same date and time as the pending motion (dkt. 205) by Siena Lending Group, LLC for relief from the automatic stay, that could disrupt the relief from stay calendar. As an alternative, the debtor may seek a consensual or non-consensual brief continuance of Siena's motion to be heard at the same time as the status conference, if that would be more appropriate or convenient for the parties.

(b) B&B Bachrach, LLC Post-Confirmation Status Conference (2:17-bk-15292-NB). The tentative ruling is to continue the post-confirmation status conference to the date and time set forth below to be heard concurrently with the continued status conference in the B&B Liquidating, LLC case.

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: Timely served (dkt. 155, 163, 167).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: Continue to 9/18/18 at 2:00 p.m. No status report required.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Continue as set forth below. Appearances are not required on 6/12/18.

(1) Current issues.

(a) Motion to Extend (1) Time to Assume or Reject Leases and (2) Term of Store Closing Sales (dkt. 172). The tentative ruling is to grant this motion. The debtor is directed to serve and lodge proposed orders via this court's "LOU" system within 7 days after the hearing date.

(b) B&B Bachrach, LLC Post-Confirmation Status Conference (2:17-bk-15292-NB). The tentative ruling is to continue the post-confirmation status conference to the date and time set forth below to be heard concurrently with the continued status conference in the B&B Liquidating, LLC case.

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: Timely served (dkt. 155, 163, 167).

(b) Plan/Disclosure Statement*: 8/31/18

(c) Continued status conference: Continue to 8/14/18 at 2:00 p.m.
Brief written status report due 7/31/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/29/18:

Continue as set forth below. Appearances are not required on 5/29/18.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 171), and other related pleadings.

(a) Untimely Status Report and April MOR. This Court's tentative ruling for 5/1/18 (see below) directed the debtor to file a brief status report by 5/15/18, but the debtor did not file a status report until 5/18/18. Further, debtor did not file its April MOR until 5/23/18. The debtor is cautioned that failure to abide by applicable deadlines in future may result in adverse consequences.

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: Timely served (dkt. 155, 163, 167).

(b) Plan/Disclosure Statement*: 8/31/18

(c) Continued status conference: Continue to 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/1/18:

Continue to 5/29/18 at 2:00 p.m. Appearances are not required on 5/1/18.

(1) Current issues.

(a) Background. At a post-confirmation status conference on 4/17/18 for B&B Bachrach (2:17-bk-15292-NB), debtor's counsel discussed the status

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of that case as well as the B&B Liquidating case. At counsel's request, this Court set a tentative bar date of 6/29/18, but advised counsel that this Court would hold off on issuing the bar date order (and may push the bar date back) pending resolution of the claims/noticing agent issues raised *sua sponte* by this Court.

(b) Cash Collateral/DIP Financing (dkt. 21, 22). The tentative ruling is to grant the motion on a final basis, as modified on the record at the hearing on 2/22/18, the interim order (dkt. 36), the amended budget (dkt. 65), and the second amended stipulation (dkt. 141). The debtor is directed to serve and lodge a proposed order via this court's "LOU" system within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: Tentatively set as 6/29/18. DO NOT serve any notice at this time (this Court will prepare an order after the claims/noticing issues are resolved)

(b) Plan/Disclosure Statement*: 8/31/18

(c) Continued status conference: continue to the date set forth at the start of this tentative ruling, *brief* status report due 5/15/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:
Appearances are not required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 78) and the other filed documents and records in this case.

(a) Utilities Motion (dkt. 4). The tentative ruling is to grant the motion on an a final basis.

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(b) Tax Motion (dkt. 5). The tentative ruling is to grant the motion on a final basis.

(c) Cash Management Motion (dkt. 6). The tentative ruling is to grant the motion on a final basis.

(d) Store Closing Sale Motion (dkt. 17). The tentative ruling is to grant the motion on a final basis.

(e) Cash Collateral/DIP Financing (dkt. 21, 22). The tentative ruling is to authorize consensual use of cash collateral as modified on the record at the hearing on 2/22/18, the interim order (dkt. 36), and the amended budget (dkt. 65).

(f) Proposed Orders. The debtor is directed to serve and lodge proposed orders via this court's "LOU" system within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: 7/31/18 DO NOT serve any notice at this time (*this Court will prepare an order after the status conference*)

(b) Plan/Disclosure Statement*: 8/31/18

(c) Continued status conference: 5/29/18 at 2:00 p.m., *brief* status report due 5/15/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/22/18:

Appearances required by counsel for the debtor. Other parties in interest are invited but not required to appear (and pursuant to LBR 9075-1, any response may be presented orally).

Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N."),

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CONT... **B&B Liquidating, LLC**
"Instructions/Procedures").

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(1) Current issues. As of the time when this tentative ruling has been prepared, there is no proof of service of the debtor's motions. The following tentative rulings are subject to (i) adequate proof of service and (ii) any oppositions presented at or prior to the hearing. In addition, rather than stating at length this Court's reasoning, the following tentative rulings adopt, to the extent relevant, the reasoning of this Court regarding similar motions in the *Bachrach* case (no. 2:17-bk-15292-NB, dkt. 46-47).

(a) Notice/Service. Pursuant to LBR 9075-1(a)(2)(B), this Court has already orally and conditionally granted the debtor's request to shorten time on the motions identified below, subject to the right of any party in interest to object at or before the hearing to the adequacy of notice. With those limitations, the tentative ruling is to find notice adequate and grant the debtor's requests in its motions (*e.g.*, dkt. 5, p.3:3-5) to excuse any requirement for telephonic notice provided that overnight delivery or other permissible expedited service (*e.g.*, personal delivery, or email as permitted by applicable rules) has been delivered no later than 24 hours prior to this hearing to all persons with a pecuniary interest that could be adversely affected by the relief requested in each motion.

(b) Immediate relief. With respect to any immediate relief described below, the tentative ruling is that the debtor has shown sufficient cause for such immediate relief under Rule 6003 (Fed. R. Bankr. P.), to the extent applicable, and the other rules and procedures governing relief on an emergency or expedited basis.

(c) Limit Notice Motion (dkt. 3). The tentative ruling is to grant this motion, subject to the following adjustments. First, the Limited Service List must be augmented to include (i) junior lienholder Emerald Capital Funding, LLC ("Emerald") and (ii) the debtor's own bankruptcy counsel (because the motion apparently contemplates that all parties in interest - not just the debtor - will be authorized to use the Limited Service List). Second, this Court contemplates limitations that parallel this Court's modifications to the parallel order in the *Bachrach* case (no. 2:17-bk-15292-NB, dkt. 53).

(d) Utilities Motion (dkt. 4). The tentative ruling is to grant the motion on an interim basis, with a final hearing at the same time as the continued status conference set forth below.

(e) Tax Motion (dkt. 5). The tentative ruling is to grant the motion on an

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interim basis, with a final hearing at the same time as the continued status conference set forth below.

(f) Cash Management Motion (dkt. 6). The tentative ruling is to grant the motion on the following conditions on an *interim* basis, with a final hearing at the same time as the continued status conference set forth below. No later than 2/23/18 the debtor must file a declaration of its CFO or other appropriate person certifying that, first, the debtor has taken measures to assure that prepetition debts are not paid out of its existing accounts (*e.g.*, stopping payment on prepetition checks, except to the extent authorized by this court), and second, the debtor is maintaining sufficiently detailed books and records that, if it becomes necessary to analyze the debtor's finances as of the petition date, such analysis will not be impaired by the non-closing of the debtor's prepetition accounts.

(g) Lease Rejection Motion (dkt. 7). The tentative ruling is to grant the motion on a final basis.

(h) Employee Wages Motion (dkt. 8). The tentative ruling is to grant this motion immediately and on a final basis as to the employees, and to grant it as to the retention of Modern HR, Inc. ("HR") either immediately or at a continued hearing if the debtor can provide an offer of proof or evidence that HR's rates are within normal market rates for comparable services.

(i) Store Closing Sale Motion (dkt. 17). The tentative ruling is to approve the retention of Great American Group LLC and Tiger Capital Group LLC (collectively, "Liquidation Consultant") subject to the filing, no later than 2/23/18, of a satisfactory statement of Liquidation Consultant's disinterestedness on Local Form F 2014-1.STMT.DISINTEREST.PROF. In addition, the tentative ruling is to authorize the proposed sales of the debtor's inventory and furniture, fixtures and equipment ("FF&E"), free and clear of any liens, claims, encumbrances or other interests of all persons/entities who have been served with the motion, with all such interests to attach to proceeds of such sales, under 11 U.S.C. 363(b) and (f)(1), (2) and (5), for the reasons stated in the motion papers. In addition, the tentative ruling with respect to compliance with nonbankruptcy liquidation laws, restrictions in leases, and abandonment of property is to track the limitations in this Court's interim order on the parallel motion in the *Bachrach* case (no. 2:17-bk-15292-NB, dkt. 71). In addition, the tentative ruling is to grant all such relief on an *interim* basis, with a final hearing at the same time as the continued status conference set forth below.

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(j) Cash Collateral/DIP Financing (dkt. 21, 22). The parties should be prepared to address the following issues. (i) Is there any evidence that the debtor is "unable" to obtain credit by granting a "senior or equal lien" to the lien of Siena Lending Group, LLC ("Siena"), within the meaning of 11 U.S.C. 364(d)(1)(A)? (ii) Why would it be appropriate for this Court to approve a roll-up, cross-collateralization, and other provisions that generally are disapproved (see dkt. 22)? (iii) Why should this Court grant broader relief in this case than it did in approving a similar motion in the *Bachrach* case (no. 2:17-bk-15292-NB, dkt. 46, Ex.A, pp.5-9, and dkt. 50)? The tentative ruling is to authorize either consensual or non-consensual use of cash collateral and, if the terms can be modified sufficiently to be acceptable, the proposed DIP financing, on an *interim* basis, with a final hearing at the same time as the continued status conference set forth below.

(k) Notice of continued hearings. The tentative ruling is to set a deadline of 2/27/18 for the debtor to file and serve a notice of the final hearing on all motions that are only granted on an interim basis, and to set the same deadline for the debtor to file any supplements or amendments to such motions, with deadlines of 3/6/18 for any opposition and 3/13/18 for any reply.

(l) Proposed Orders. This court intends to file these tentative rulings on the docket (with the caption, "Memorialization Of Tentative rulings" or the like). Thereafter, if appropriate, all orders can grant or deny relief "for the reasons stated in the Memorialization Of Tentative Rulings (dkt. __), as modified or supplemented on the record at the hearing" (or similar language). The debtor is directed to serve and lodge proposed orders via this court's "LOU" system within 7 days after the hearing date.

In view of the shortened time on the foregoing motions, parties in interest may appear and dispute the foregoing tentative rulings without prior notice to the debtor or the court (contrary to the usual requirements for "tentative rulings" under Judge Bason's Procedures, posted at www.cacb.uscourts.gov).

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: March 20, 2018 at 2:00 p.m., status report due 3/6/18. (see order, dkt. 18).

*Warning: special procedures apply (see order setting initial status)

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conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

B&B Liquidating, LLC

Represented By
Brian L Davidoff

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2:17-15292 B&B Bachrach, LLC

Chapter 11

#4.00 Cont'd Status Conference re: Post Confirmation
fr. 05/04/17; 05/23/17; 06/08/17, 06/20/17,
7/11/17, 8/8/17, 9/12/17, 10/17/17, 11/7/17,
1/23/18, 02/13/18, 5/1/18, 5/29/18, 6/12/18, 08/14/18
9/18/18, 11/6/18, 12/11/18

Docket 1

***** VACATED *** REASON: Final Decree Closing Case Entered 12/12/18
(Dkt. 330)**

Tentative Ruling:

Party Information

Debtor(s):

B&B Bachrach, LLC

Represented By
Brian L Davidoff

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2:16-24755 Gloria Elisa Galvan

Chapter 13

#5.00 Cont'd hrg re: Motion to Disallow Claim Number 13
Filed by TSDC, LLC
fr. 8/2/18, 10/02/18, 11/6/18

Docket 113

***** VACATED *** REASON: Continue to 3/21/19 at 8:30 a.m. per
stipulation (dkt. 150) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Michael E Clark
Nancy B Clark
Nancy B Clark
Barry E Borowitz
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#6.00 Cont'd hrg re: Motion for Order Approving Compromise Between Robert Brown, The Law Offices of Robert A. Brown, and Acquiplied Assets, B.T.
fr. 11/6/18, 12/11/18

Docket 52

Tentative Ruling:

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the status conference (calendar no. 7, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the status conference (calendar no. 6, 11/6/18 at 1:00 p.m.).

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Stephen L Burton

Trustee(s):

Howard M Ehrenberg, Ch 7 Trustee

Represented By
Asa S Hami

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2:18-18709 Acquired Assets, B.T.

Chapter 7

#7.00 Cont'd Status Conference re: Chapter 7 Case
fr. 9/4/18,10/9/18, 11/6/18, 12/11/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

Both at the 11/6/18 hearing, and in a subsequent stipulation for a continuance (dkt. 92), the parties informed this Court that they were attempting mediation regarding a motion, filed by Debtor while it was still under the control of its principal, Mr. Brown, to approve a compromise that would provide for distribution of substantial funds to Mr. Brown. See 52, 61, 75, 81, 92, 94. The parties are directed to apprise this Court of the current status of their disputes.

(2) Deadlines/dates. This case was filed on 7/30/18 and converted to chapter 7 on 10/10/18.

(a) Bar date: 11/7/18 (see dkt. 47, 51, and tentative ruling for 10/9/18, reproduced below).

(b) Plan/Disclosure Statement*: N/A.

(c) Continued status conference: 2/5/19 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... **Acquiplied Assets, B.T.**

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Continue to as set forth below, to be concurrent with the hearing on the motion to approve compromise (see dkt. 52, 92, 94). Appearances are not required on 12/11/18.

(1) Current issues

This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 7/30/18 and converted to chapter 7 on 10/10/18.

(a) Bar date: 11/7/18 (see dkt. 47, 51, and tentative ruling for 10/9/18, reproduced below).

(b) Plan/Disclosure Statement*: N/A.

(c) Continued status conference: 1/8/19 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required.

(1) Current issues

(a) Debtor's motion to approve compromise (dkt. 52). There is no tentative ruling but the parties should be prepared to address the responses by Allstar and the Chapter 7 Trustee (see dkt. 61, 75) and Debtor's reply (dkt. 81).

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(2) Deadlines/dates. This case was filed on 7/30/18 and converted to chapter 7 on 10/10/18.

(a) Bar date: 11/7/18 (see dkt. 47, 51, and tentative ruling for 10/9/18, reproduced below).

(b) Plan/Disclosure Statement: N/A.

(c) Continued status conference: 12/4/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/9/18:

Appearances required. The tentative ruling is to convert this case to chapter 7 pursuant to 11 U.S.C. 1112(b), due to the apparent conflicts of interest of the debtor's principal, Mr. Brown, with the interests of creditors. See Motion by UST (dkt. 39), Joinder by Allstar Fin. Svcs., Inc. (dkt. 62). Although Debtor asserts (dkt. 58) that a number of issues identified by the UST have been addressed, the opposition does not adequately address the alleged conflicts of interest. In addition, the issues identified in this Court's tentative ruling for 10/9/18 (reproduced below) have not been adequately addressed. In addition, this Court's order (dkt. 47) directed Debtor not to serve a notice of bar date and instead to serve a copy of that order itself, no later than 9/7/18, but Debtor disregarded that order and served its own notice (dkt. 51) on 9/16/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/4/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Failure to serve order. This Court's status conference order (dkt. 9, para.5, bolded text) directed counsel for the debtor to serve all creditors with a copy of the order. Why was it not served?

(b) Failure to comply with requirements for professionals. The debtor's status report (dkt. 45, p.4) states that neither the debtor's attorney nor any other professional intend to apply for employment because they do not intend to seek compensation during the case. That is not the test. They are required to apply for employment under 11 U.S.C. 327. In addition, the United States Trustee ("UST") has objected in its motion to dismiss (dkt. 39) that the person who claims to be acting as the debtor's bankruptcy attorney, Robert A. Brown, Esq., is also the debtor's CEO and General Counsel. The parties should be prepared to address the conflicts issues.

(c) Failure to comply with Chapter 11 requirements. See the UST's motion to dismiss (dkt. 39).

(d) Failure to comply with procedures for plan (dkt. 38) and disclosure statement (dkt. 37). As stated in this Court's status conferences order (dkt. 9), Judge Bason's posted procedures (available at www.cacb.uscourts.gov) establish procedures for any draft plan and disclosure statement. Counsel for the debtor has violated those procedures by mailing a copy of the drafts to creditors before this Court has approved such mailing.

In addition, those documents omit any meaningful liquidation analysis or disclosure of what could be paid to general unsecured creditors, instead opting for a flat 12% promised distribution (dkt. 38, at PDF pp.13-14). In addition, from the summary of assets and liabilities (dkt. 19) it appears that the debtor might have enough equity in property to pay far more than 12%,

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depending on the total amount of unsecured claims.

(e) Opaque "disclosures". The debtor's references to a sale of the "Marsh" property is not adequately explained. In addition, although the debtor's bankruptcy Schedule H (dkt. 1) asserts that there are no co-debtors, this Court questions whether that is so because business organizations typically have individual guarantors on any major debts.

(2) Deadlines/dates. This case was filed on 7/30/18.

(a) Bar date: 11/7/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement: TBD.

(c) Continued status conference: 10/9/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Stephen L Burton

Trustee(s):

Howard M Ehrenberg, Ch 7 Trustee

Represented By
Asa S Hami

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#8.00 Hrg re: Motion of Debra West for Leave to Withdraw
Proof of Claim No. 5-1

Docket 392

Tentative Ruling:

Please see the tentative ruling for calendar no. 9 (1/8/19 at 2:00 p.m.).

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#9.00 Cont'd hrg re: Motion for Order Pursuant to Bankruptcy Rule 3006 Conditioning Withdrawal of Debra West Proof of Claim fr. 12/11/18

Docket 380

Tentative Ruling:

Revised Tentative Ruling for 1/8/19:

(1) Grant Ms. West's motion for leave to withdraw her proof of claim (dkt. 392), and (2) grant in part and deny in part Mr. Britton's motion requesting conditions on that withdrawal (dkt. 380) by (a) requiring disclosure to Mr. Britton (on a confidential basis) of the agreement between Mr. Riggs and Ms. West but (b) denying Mr. Britton's request for attorney fees. Appearances required.

Proposed order: Mr. Britton is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling (subject to any changes at the hearing). See LBR 9021-1(b)(1)(B).

Analysis

Mr. Britton seeks two conditions on Ms. West's withdrawal of her claim: (1) disclosure of the terms of the agreement between Mr. Riggs and Ms. West (dkt. 380, pp.12:3-13:22) and (2) payment of his attorney fees (*id.*, pp.13:23-15:2).

(1) Disclosure of agreement between Mr. Riggs and Ms. West

On the one hand, Mr. Britton's assertions of something nefarious are not very persuasive. As Ms. West argues, she has been caught in the middle of the disputes between Mr. Britton and Mr. Riggs (both in his individual capacity and through the debtor, Cloudbreak). There is nothing surprising in each of Mr. Britton and Mr. Riggs attempting to obtain West as an ally.

The circumstances of this case do not lend themselves to the sort of mischief that Mr. Britton vaguely suggests. For example, Ms. West is not a

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CONT... **Cloudbreak Entertainment, Inc.**

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business competitor who has obtained trade secrets from Mr. Britton that she could sell to Mr. Riggs as part of her settlement with Mr. Riggs. Nor is Ms. West a potential bidder for Cloudbreak's assets who may have engaged in collusion to chill the bidding.

Nevertheless the tentative ruling is that Ms. West and Mr. Riggs have not established a sufficient basis to keep the contents of their agreement secret from Mr. Britton. Given the broad scope of discovery, especially in bankruptcy cases (see Rule 2004, Fed. R. Bankr. P.), a general desire to maintain confidentiality is insufficient. It appears to be appropriate to condition Ms. West's withdrawal of her claim on disclosure (on a confidential basis) of her agreement with Mr. Riggs.

The confidentiality requirement would include a prohibition on Mr. Britton divulging the contents of Ms. West's agreement with Mr. Riggs in any other litigation, without a prior order of this Bankruptcy Court approving such disclosure. The orders on these motions should incorporate a retention of jurisdiction for that purpose.

(2) Attorney fees

Under the "American Rule" parties generally bear their own legal fees. There is a possible exception if an award of fees would be appropriate to compensate for some sort of legal prejudice, but Mr. Britton has not established such legal prejudice. See *In re Lowenschuss*, 67 F. 3d 1394, 1400-01 (9th Cir. 1995) ("At most, Lowenschuss has been inconvenienced by expending time and resources in preparing for the trial and we have held that the inconvenience of defending another lawsuit or the fact that the defendant has already begun trial preparations does not constitute [legal] prejudice.") (citation and internal quotation marks omitted). *But cf. id.* at 1401 n.5 (noting possible remedy of conditioning withdrawal of claims on payment of attorney fees). See also *In re County of Orange*, 203 B.R. 977, 982 (Bankr. C.D. Cal. 1996) ("loss of a tactical advantage" does not constitute legal prejudice) (citations omitted).

Mr. Britton cites the footnote in *Lowenschuss* noting that awarding attorney fees might be appropriate in some circumstances (cited above), but that footnote merely notes the possibility without setting forth any standards for this Bankruptcy Court's exercise of that discretion. Mr. Britton also cites other authorities, such as *Kern v. TXO Production Corp.*, 738 F. 2d 968, 971-73 (8th Cir. 1984), but they are unpersuasive. In *Kern*, for example, the

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CONT... **Cloudbreak Entertainment, Inc.**

Chapter 11

dismissal without prejudice occurred after trial had begun, and there was a substantial risk that the other party would have to litigate the same claims again, so any such second lawsuit would be subject to reimbursement for any "lawyers' services that will have to be repeated," as opposed to those that would be "freely usable in the second [lawsuit]." *Id.*, 972-73 (citation omitted). Britton has not established any scenario in which he will face a similar situation of having to duplicate his payment of legal fees. Rather, the tentative ruling is that Mr. Britton has incurred the usual expenses of litigation, which he must bear himself and cannot shift to Ms. West.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 1/8/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:17-22648 Checkmate King Co., LTD and Radiology Solutions Corp.

Chapter 11

#10.00 Hrg re: Final fee applicaiton for Compensation for legal services rendered and reimbursement of expenses incurred by Debtors Counsel, namely Law Office of Robert M. Aronson

Docket 249

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:17-22648 Checkmate King Co., LTD and Radiology Solutions Corp.

Chapter 11

#11.00 Cont'd status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar

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no. 6, 8/14/18 at 2:00 p.m.).

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Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss

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appropriate deadlines.

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(c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:
Appearances required.

(1) Current issues.

(a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a

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later time).

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(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on a final basis.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

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(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

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(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#12.00 Hrg re: Motion to authorize and approve: (1) Bidding procedures;
(2) Sale of real property located at 29370 Hunco Way, Lake Elsinore,
CA 92530-2714 free and clear of liens and encumbrances; (3)
Authorization to pay brokers' fees; and (4) Ancillary relief

Docket 333

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#13.00 Hrg re: Final fee application for approval of professional compensation for legal services rendered and reimbursement of expenses incurred by debtor's counsel, Nicholas Gebelt fee period October 16, 2017 to December 18, 2018

Docket 343

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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#14.00 Hrg re: Application for approval to employ Sekiwa Real Estate Co, LTD., Ikebukuro Branch, as Real Estate Broker

Docket 337

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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Chapter 11

#15.00 Status Conference re: Post confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18

Docket 1

Tentative Ruling:

**Tentative Ruling for 1/8/19:
Appearances Required**

(1) Current Issues

(a) Chapter 11 Plan (Sakurai dkt. 309, Checkmate dkt. 234, the "Plan")

For the reasons set forth in the tentative ruling for the hearing on 12/11/18, as well as the statements made at that hearing, the parties should be prepared to address whether the Fresco parties will demand conversion of these cases pursuant to the terms of the parties' earlier stipulation (Sakurai dkt. 266, *and see, e.g.*, dkt. 282). Meanwhile, the effective date of the Plan has been deferred pending approval of a real estate broker to sell Debtors' property in Japan (see next paragraph below).

(b) Application to Employ Sekiwa Real Estate Co., Ltd (Sakurai, dkt. 337)

There is no tentative ruling, but the parties should be prepared to address the issues raised in the order setting hearing (Sakurai, dkt. 349).

(c) Motion to Approve Bidding Procedure, Sale of Lake Elsinore Property and Broker Fees (Sakurai, dkt. 333)

The tentative ruling is to grant the motion and, subject to any overbidding, (i) approve the sale to R2H Investments, LLC ("Buyer") for \$1.5 million, free and clear of liens pursuant to 11 U.S.C. 363(b)&(f)(2), (ii) approve the broker commissions, and (iii) if sufficient declarations are filed to support a "good faith" finding under 11 U.S.C. 363(m) (see Judge Bason's posted procedures, available at www.cacb.uscourts.gov), include such a finding.

(d) Final Fee Application for Debtor's Counsel (Checkmate, dkt. 249. 250)

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Yuichiro Sakurai and Akemi Sakurai

Chapter 11

Grant for total fees and expenses of \$350,846.10.

(e) Final Fee Application for Debtor's Counsel (Sakurai, dkt. 343)

Grant for total fees and expenses of \$118,796.75.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 1/15/19 at 2:00 p.m. (no written status report required).

*Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances Required

(1) Current Issues

(a) Chapter 11 Plan (Sakurai dkt. 309, Checkmate dkt. 234, the "Plan")

Based on the status reports filed by Debtors (Checkmate dkt. 246, Sakurai dkt. 329), the responses filed by the Fresco parties (Checkmate dkt. 247, Sakurai dkt. 330), and Debtors' reply (Sakurai dkt. 335), and the recent developments regarding the various properties (e.g., Sakurai dkt. 331-34,), the parties should be prepared to address whether the Fresco parties will demand conversion of these cases pursuant to the terms of the parties' earlier stipulation (Sakurai dkt. 266, *and see*, e.g., dkt. 282).

This Court understands that the Japanese property has not been listed for sale despite this long-standing requirement, as reflected in this Court's order approving the disclosure statement (Sakurai dkt. 325). Debtors have

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Chapter 11

offered various excuses, but the tentative ruling is that whether or not there are good reasons for the delay, that is irrelevant because under the parties' stipulation the Fresco parties do not need any reasons to require conversion, given that Debtors have not met the deadlines.

(b) RS/Fower Adversary Proceeding (2:18-ap-01602-NB)

The parties have indicated the need for further discovery. The tentative ruling is to extend the deadline for discovery to 2/15/19 and to set this case for a further status conference concurrent with the continued status conferences in the main cases, set forth below.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): for 1/15/19 at 2:00 p.m., with a brief status report due 1/8/19.

*Warning: special procedures apply (see order setting principal status conference).

Revised Tentative Ruling for 11/6/18:

Appearances required.

(1) Current Issues

(a) Chapter 11 Plan (Sakurai dkt. 309, Checkmate dkt. 234, the "Plan"); Disclosure Statement (Sakurai dkt. 310, Checkmate dkt. 235, the "D/S"). Approve the D/S on a final basis, and confirm the Plan, based on the ballot summary (Sakurai dkt. 313) and subject to an offer of proof that the proof of service (Sakurai dkt. 311) should be deemed amended to include service of the Plan, instead of listing the D/S twice. Debtors are directed to lodge proposed orders within 7 days after this hearing (each estate should have an order finally approving the D/S, and a second order confirming the Plan and setting the post-confirmation status conference set forth below).

(b) Motion to Compromise with Community Bank (Sakurai dkt. 301, Checkmate dkt. 226). Grant. Community Bank is directed to lodge a proposed order within 7 days after this hearing.

(c) RS/Fower Adversary Proceeding (2:18-ap-01602-NB). Continue

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the status conference to the date and time stated below.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued status conference: Set post-confirmation status conferences in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding, for 12/11/18 at 2:00 p.m., with a brief status report due 12/4/18.

*Warning: special procedures apply (see order setting principal status conference).

Tentative Ruling for 11/6/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues

(a) Chapter 11 Plan (Sakurai dkt. 295, Checkmate dkt. 221, the "Plan"); Disclosure Statement (Sakurai dkt. 296, Checkmate dkt. 222, the "D/S"). The parties should be prepared to discuss whether the Plan and D/S fully comply with the Stipulation with the Fresco Parties (D/S, Ex.1, and dkt. 266), including whether the Plan provides for the nondischargeability of the Fresco Parties' claim and the Fresco Parties' right to appoint forensic accountants. In addition, Exhibit C to the disclosure statement does not appear to include the \$793,000 account pledged to Citizens Business Bank (the "Bank") or the \$400,000 "note owed [by an undisclosed person] in the Sakurai case." D/S, Attachment, p.3:11-14. In addition, periods "A" through "F" on Exhibit C are confusing. In addition, Exhibit F appears to include some printing and other errors.

The tentative ruling is to set a deadline of 10/18/18 for Debtors to file a further amended Plan and amended D/S to correct these issues and lodge a proposed order, substantially in the form of the order posted on Judge

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Bason's portion of the Court's website (www.cacb.uscourts.gov), authorizing the service of a voting package and setting a combined hearing on final approval of the D/S and confirmation of the Plan for the same time as the continued status conference (see below). The tentative ruling is that the voting package should include Mr. Sakurai's declaration (Sakurai dkt. 297) but not include any of the exhibits to it, and instead include a note stating that the exhibits are available upon request.

In addition, the tentative ruling is that the Plan must include provisions to safeguard proceeds from the sales of property, liquidation of the bank account pledged to the Bank, and any other assets of the estate. The tentative ruling is that any proceeds must be transferred directly from escrow to a bank account from which funds cannot be released absent the signature of Debtors' counsel, upon order of this Court.

(b) RS/Fower Adversary Proceeding (2:18-ap-01602-NB). The tentative ruling is to continue the status conference to the date and time stated below.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued status conference: Continue the status conferences in the *Sakurai* and *Checkmate* cases to 11/6/18 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 9/18/18:

Appearances are not required.

(1) Current issues.

(a) Fresco Parties' Motions to Convert Cases (dkt. 199 & Checkmate 2:17-bk-22648-NB, dkt. 185). The tentative ruling is to tentatively approve the parties' stipulations (Sakurai dkt. 266 *and* Checkmate dkt. 208) as settlements of the respective motions under Rule 9019 (Fed. R. Bankr. P.), and to rule that notice of such settlements need not be provided pursuant to Rule 2002(a)(3). The cause for not requiring notice is that the motions to convert were properly served, a hearing was held, the parties who sought to

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be heard on that matter had an opportunity to be heard, the stipulation does not appear to result in any relief different in degree from what could have been ordered at that hearing, and to the contrary the resolution appears to be better for all creditors (and all other parties in interest) than the alternative of immediate conversion of each case to chapter 7.

Proposed orders: The Fresco Parties are directed to lodge two separate proposed orders (one for each settlement) via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(b) RS/Fower Adversary Proceeding (2:18-ap-01602-NB). The tentative ruling is to continue the status conference to the date and time stated below.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: per the parties' stipulation (dkt. 266).

(c) Continued status conference: Continue the status conferences in the *Sakurai* and *Checkmate* cases to 10/9/18 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required.

(1) Current issues.

(a) Fresco Parties' Motion to Convert Cases (dkt. 199 & Checkmate 2:17-bk-22648-NB, dkt. 185). The tentative ruling is to grant Fresco's motions

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to convert the Checkmate and Sakurai cases to chapter 7 for the following reasons.

(i) Gross mismanagement. The tentative finding of fact is that the debtors have grossly mismanaged their estates such that cause exists under 1112(b)(4)(B) to convert their cases. These cases have been pending for nearly a year, since 10/16/17, only very belated and half-hearted investigation or collection activity against Radiology Solutions and Fower - either using legal enforcement or practical steps. For example, at hearings on 11/14/17 and 1/30/18, the debtors maintained their belief that they could recover 100% on the dated receiveables from Radiology Solutions, despite this Court's expressed concerns with the debtors' counsel regarding the apparent lack of collection activity based on Checkmate's failure to use the vast panoply of litigation tools available to them, including examinations under Rule 2004 (Fed. R. Bankr. P.), other discovery tools, remedies such as immediately seeking restraining orders and injunctions, and non-litigation approaches such as pressuring Radiology Solutions and Fower by reporting their defaults to Siemens or attempting to use pressure from other suppliers, customers, government regulators, or other persons. All of those avenues should have been explored vigorously, both prepetition and postpetition, and disclosed to parties in interest in these cases.

(ii) Other "cause." The debtors appear to have run through vast amounts of money to "purchase" equipment that does not exist, and yet as set forth above they have a very cavalier attitude toward attempting to engage in discovery or collection, while continuing to insist that they expected very substantial recoveries from those sources and/or from equipment (which turned out not to exist). The tentative finding of fact is that these circumstances show not just gross mismanagement but also that the debtors are hiding facts, or they are attempting to run out the clock on possible causes of action against them or transferees of their assets, or both.

(ii) The debtors' counter-argument about the best interests of creditors is not persuasive. The debtors argue that under their liquidation analysis (*Sakurai*, dkt. 240, PDF p. 14, *Checkmate*, dkt. 194, PDF p. 17) creditors will receive faster and better recoveries if the debtors are permitted to engage in a liquidation through chapter 11, rather than converting these cases to chapter 7. There are several problems with this argument.

First, this Court questions the debtors' projected recoveries in chapter 11. The debtors have been wildly inaccurate (or have intentionally hidden the

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truth) before, as set forth above. This Court has no faith in the Debtors to adequately disclose and maximize the value of their remaining assets, such as the house in Japan or purported interests in that house. Moreover, this Court is concerned about the debtor's management of whatever is recovered, such as what might happen to proceeds from the sale of real property. This Court recognizes that safeguards can be attempted; but safeguards can also be evaded, and the tentative ruling is that the simplest and best safeguard is to appoint a chapter 7 trustee.

Second, this Court questions the debtor's projected lack of substantial recoveries in chapter 7. The tentative ruling is that the Fresco Parties have the better arguments regarding the potential benefits to unsecured creditors in a chapter 7 case (perhaps as much as 80% or more).

Third, supposing for the sake of discussion that the debtors were accurate in their projected recoveries in a liquidating chapter 11 case, and their comparison with projected recoveries in a chapter 7 case, that is not the only consideration. This Court must consider the integrity of the bankruptcy system. Given the debtors' gross mismanagement and this Court's concerns about the debtors' conduct (as described above) it appears that the only adequate safeguard of the integrity of the bankruptcy system is to convert these cases to chapter 7.

(iii) Evidentiary Objections (Sakurai, dkt. 233, 252) & (Checkmate 2:17-bk-22648-NB, dkt. 200, 204). The tentative ruling is that the history of this case and this Court's own admonishments to the debtors provides ample support for conversion, so this Court need not resolve the parties' respective evidentiary objections.

(iv) Proposed Orders. The Fresco Parties are directed to lodge proposed orders via this Court's LOU system within 7 days of the hearing.

(b) Application to Employ KW Commercial Inland Empire (dkt. 197) and Neiman Realty (dkt. 206). If this Court adopts the tentative ruling set forth above, the tentative ruling is to continue these hearings to the date and time set forth below to allow time for the chapter 7 trustees to weigh in.

(c) RS/Fower Adversary Proceeding (2:18-ap-01602-NB). The tentative ruling is to continue the status conference to the date and time stated below.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

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(b) Amended Joint Plan/Amended Joint Disclosure Statement*: TBD
based on the outcome of the Conversion Motions.

(c) Continued status conference: If this Court converts these cases to chapter 7, the tentative ruling is to continue the status conference in the *Sakurai* and *Checkmate* cases to 10/9/18 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Rulings for 10/26/17 through 8/14/18:
[OMITTED FOR BREVITY]**

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:19-10073 Stanley Swain's, Inc.

Chapter 11

**#1.00 [Before Judge Bason who is hearing this matter
in Judge Brand's absence]**

Hrg re: Motions Motion Pursuant To Local Bankruptcy
Rule 2081-1(b) For Order Determining Adequate
Assurance Of Payment For Post-Petition Utility Services

Docket 3

Tentative Ruling:

Please see the tentative ruling for the case status conference (calendar no. 6,
1/11/19 at 3:00 p.m.).

Party Information

Debtor(s):

Stanley Swain's, Inc.

Represented By
Steven R Fox

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2:19-10073 Stanley Swain's, Inc.

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**#2.00 [Before Judge Bason who is hearing this matter
in Judge Brand's absence]**

Hrg re: Motion For Order Authorizing Continuation
Of Customer Practices, Warranties And Returns

Docket 4

Tentative Ruling:

Please see the tentative ruling for the case status conference (calendar no. 6,
1/11/19 at 3:00 p.m.).

Party Information

Debtor(s):

Stanley Swain's, Inc.

Represented By
Steven R Fox

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2:19-10073 Stanley Swain's, Inc.

Chapter 11

**#3.00 [Before Judge Bason who is hearing this matter
in Judge Brand's absence]**

Hrg re: Motion For Authority To Obtain Post-Petition Financing

Docket 5

Tentative Ruling:

Please see the tentative ruling for the case status conference (calendar no. 6,
1/11/19 at 3:00 p.m.).

Party Information

Debtor(s):

Stanley Swain's, Inc.

Represented By
Steven R Fox

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2:19-10073 Stanley Swain's, Inc.

Chapter 11

**#4.00 [Before Judge Bason who is hearing this matter
in Judge Brand's absence]**

Hrg re: Motion To Authorize Debtor To Pay
Prepetition Priority Employee Wages

Docket 6

Tentative Ruling:

Please see the tentative ruling for the case status conference (calendar no. 6,
1/11/19 at 3:00 p.m.).

Party Information

Debtor(s):

Stanley Swain's, Inc.

Represented By
Steven R Fox

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2:19-10073 Stanley Swain's, Inc.

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#5.00 ***[Before Judge Bason who is hearing this matter
in Judge Brand's absence]***

Hrg re: Motion to Use Cash Collateral On
An Interim And Final Basis

Docket 7

Tentative Ruling:

Grant the motion (docket no. 7) on an interim basis, subject to (1) any opposition at or before the hearing (per the order shortening time, dkt. 16), and (2) the conditions set forth below, with a final hearing on the same date as the continued case status conference (see calendar no. 6, 1/11/19 at 3:00 p.m.). Appearances required.

Note: The following are Judge Bason's standard conditions, and the tentative ruling is to adopt them at this interim hearing. These might (or might not) be superseded by whatever conditions Judge Brand decides to impose at the final hearing, or at any other time.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically

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provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided

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by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

Party Information

Debtor(s):

Stanley Swain's, Inc.

Represented By
Steven R Fox

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#6.00 Status conference re: Chapter 11 case

Docket 0

Tentative Ruling:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

This Court has reviewed Debtor's motions, notice (dkt. 26), declaration regarding service (dkt. 31), and the other filed papers. The tentative ruling is to grant the motions as set forth below.

Proposed orders: Debtor is directed to lodge proposed orders on each of the following motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Notice of further hearings: Debtor is also directed to file and serve notice of the final hearings and continued status conference, as set forth below, **no later than 1/15/19**.

(a) Payroll motion (dkt. 6)

Grant on a final basis, subject to any opposition at the hearing, per the order setting this hearing on shortened time (dkt. 17).

(b) Customer practices motion (dkt. 4)

Grant on a final basis, subject to any opposition at the hearing, per the order setting this hearing on shortened time (dkt. 19).

(c) Utilities motion (dkt. 3)

Grant on an interim basis, subject to any opposition at the hearing, per the order setting this hearing on shortened time (dkt. 20), with a continued hearing at the same time as the continued case status conference (see below).

(d) Cash collateral motion (dkt. 7)

Grant on an interim basis, subject to any opposition at the hearing and the other conditions set forth in the tentative ruling for that motion (calendar no. 5, 1/11/19 at 3:00 p.m.), with a continued hearing at the same time as the continued case status conference (see below).

(e) Financing motion (dkt. 5)

Grant on an interim basis, subject to (i) not permitting any repayment until

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further order of this Court (this Court anticipates that at the final hearing on this motion conditions may be set on any repayment), and (ii) any opposition at the hearing, per the order setting this hearing on shortened time (dkt. 18). The tentative ruling is to hold a final hearing on this motion at the same time as the continued case status conference (see below).

(2) Deadlines/dates. This case was filed on 1/4/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement filing deadline: TBD

(c) Continued case status conference: 1/31/19 at 10:00 a.m., status report due 1/17/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Stanley Swain's, Inc.

Represented By
Steven R Fox

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10:00 AM

2:18-10956 La Tanya R. Taylor

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

M & T BANK as Attorney in Fact for
LAKEVIEW LOAN SERVICING, LLC
VS
DEBTOR

Docket 45

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

La Tanya R. Taylor

Represented By
Sundee M Teeple
Craig K Streed
Cynthia L Gibson

Movant(s):

M&T Bank as Attorney in Fact for

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-15467 Rita M Fiora

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NA
vs
DEBTOR

Docket 47

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Rita M Fiora

Represented By
Bryan L Ngo

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-16732 Motiv8 Investments, LLC

Chapter 11

#3.00 Hrg re: Motion for relief from stay [RP]

CRESCENT CAPITAL HOLDINGS, LLC
vs
DEBTOR

Docket 78

Tentative Ruling:

Appearances required. The tentative ruling is either (1) if no evidence of insurance is provided at the hearing, or perhaps within a very short window, to grant immediate relief from the automatic stay, and otherwise (2) to require Debtor to sell the subject property immediately, and set related procedures including a continued hearing on this motion for relief from the automatic stay, all as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Background

Movant previously filed a motion (dkt. 8) for relief from the automatic stay in this case. This Court issued an adequate protection order (dkt. 31, the "APO"). The APO provides that the stay will remain in place as long as Debtor makes adequate protection payments, but that the stay will not apply in any future bankruptcy case ("*in rem*" relief).

(2) Alleged cause for relief under 11 U.S.C. 362(d)(1)&(4)

(a) Insurance

Movant asserts that Debtor has failed to provide proof that the property is insured. See dkt. 78, p.3. Debtor's response (dkt. 83) fails to address this issue, as pointed out by Movant's reply (dkt. 85).

At the hearing, Debtor is directed to address whether the property is insured, and to make an offer of proof. This Court may be persuaded to terminate the automatic stay immediately if Debtor fails to provide adequate

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proof of insurance that complies with the loan documents (e.g., naming Movant as a party entitled to notice and/or as an insured party, if that is what the loan documents require).

(b) Order for relief from the stay in a related case

Movant now seeks relief again, pointing out that since the APO was issued an order granting relief from the automatic stay has been issued in a case filed by Debtor's principal and 100% equity owner, Sergio Moreno Morales. See *In re Morales* (Case No. 2:18-bk-16365-WB), dkt. 31 (issued on 7/3/18) (the "*In Rem Order*"). The *In Rem Order* grants relief under 11 U.S.C. 362(d)(4) - *i.e.*, relief that is applicable notwithstanding any future bankruptcy case. By definition the *In Rem Order* is not applicable to this pending bankruptcy case, but Movant apparently believes the issuance of that order should be considered cause under 11 U.S.C. 362(d)(1)&(4) to modify the APO so as to terminate the automatic stay immediately.

This Court is not persuaded. First, as Debtor points, in this case there is no evidence that Debtor has failed to comply with the APO.

Second, the *In Rem Order* itself recites that there was no opposition to that order. In contrast, in this case Debtor has responded and adequately established, long before the *In Rem Order* was issued, that there were grounds to hold Debtor to a strict APO but not terminate the stay.

To summarize this Court's prior reasoning in issuing the APO, although it is true that Mr. Morales has filed multiple bankruptcy cases and previously arranged an unauthorized transfer of title to the real property from Debtor to himself, (a) title was restored to Debtor on or about 6/1/18 (see dkt. 21, p.4:5-6), (b) Mr. Morales has adequately explained his prior bankruptcy cases and the unauthorized transfer of title, at least for purposes of issuing the APO rather than terminating the automatic stay (see dkt. 21, pp.4:9-5:21, and 7:12-10:22), and (c) creditors would be harmed if the stay were terminated in this case. Not only does this reasoning still apply, but the APO is the law of this case, and Movant has neither briefed the standards for overcoming the law of the case nor established legal or factual grounds for reconsidering the APO.

(3) Alleged grounds for relief under 11 U.S.C. 362(d)(2)

As Debtor argues, Movant must show both (a) a lack of equity in the property and (b) that the property is not necessary for an effective reorganization. Debtor disputes both of these prongs. Ultimately, however,

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CONT... **Motiv8 Investments, LLC**

Chapter 11

both parties' arguments depend on whether there is equity in the property. If there is, then the property can be sold and net proceeds distributed to creditors. If there is no equity, Debtor has not suggested any reason why the property would be necessary to an effective reorganization.

Any equity in the property is equal to the property's value minus costs of sale and liens or other encumbrances. Debtor questions whether the dollar amount that Movant claims to be owed on its lien takes into consideration the payments made under the APO. That may make a difference of a few thousand dollars. The larger issue is the value of the property.

Movant asserts that the value is \$750,000. See dkt. 78, p.8 & Ex.M, and dkt. 85 at PDF pp.11 *et seq.* (Mauch Decl.). Debtor's principal asserts (dkt. 83, pp.9:20-10:2) that Debtor has recently accepted an offer to purchase the property for \$850,000, for which he will seek this Court's approval under 11 U.S.C. 363(b)&(f). Debtor's principal also asserts (*id.*) that he believes the property is actually worth much more - approximately \$915,000 - but that "in the interest of moving Debtor's reorganization along and avoiding Movant's attempts at relief and foreclosure" he "has determined that it is in the best interest of the estate to accept a purchase price of \$850,000.00."

The tentative ruling is that the best method of determining whether Debtor has an equity in the property (and hence, in the circumstances of this case, whether the property is necessary to an effective reorganization of Debtor's finances) is to move forward with the proposed sale of the property (presumably subject to overbids). As the Supreme Court has stated, generally "the best way to determine value is exposure to a market." *Bank of Am. v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457 (1999).

This Court takes judicial notice that Debtor has filed an application (dkt. 82) to employ a real estate broker. In other words, Debtor appears to be taking steps to proceed with the proposed sale of the property.

Accordingly, the tentative ruling is to set a deadline for Debtor to file and serve its motion to sell the property under 11 U.S.C. 363(b)&(f), and defer any other issues until after this Court determines whether or not to approve the proposed sale. The tentative ruling is that a motion to sell must be filed and served no later than 2/1/19, and self-calendared for hearing on 2/26/19 at 1:00 p.m.

In addition, the tentative ruling is to continue the present motion for relief from the automatic stay to the same time (specially set at 1:00 p.m., rather than the usual time of 10:00 a.m.). In addition, the tentative ruling is to

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reschedule the upcoming Status Conference in this case from 2/5/19 to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

Movant(s):

Crescent Capital Holdings, LLC

Represented By
Amy E Martinez

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2:18-20928 James Burton Brown

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

PACIFIC UNION FINANCIAL, LLC
vs
DEBTOR

Docket 22

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

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James Burton Brown

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Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

James Burton Brown

Represented By
Andrew Edward Smyth
Stephen S Smyth

Movant(s):

Pacific Union Financial, LLC

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:16-25361 Sandy G. Villanueva and Antonio Figueroa

Chapter 13

#5.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 57

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Sandy G. Villanueva and Antonio Figueroa

Chapter 13

Party Information

Debtor(s):

Sandy G. Villanueva

Represented By
Michael E Plotkin

Joint Debtor(s):

Antonio Figueroa

Represented By
Michael E Plotkin

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:17-12316 Jo Ann Ennen

Chapter 13

#6.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 37

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Jo Ann Ennen

Chapter 13

Party Information

Debtor(s):

Jo Ann Ennen

Represented By
Hale Andrew Antico

Movant(s):

Toyota Motor Credit Corporation,

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-15055 Karla Enid Ramirez

Chapter 11

#7.00 Hrg re: Motion for relief from stay [PP]

FORD MOTOR CREDIT COMPANY, LLC
vs
DEBTOR

Docket 96

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 110).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Karla Enid Ramirez

Represented By
Lionel E Giron
Kevin Tang

Movant(s):

Ford Motor Credit Company LLC

Represented By
Randall P Mroczynski

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2:18-20940 Vazrik Allahverdi

Chapter 13

#8.00 **[CASE DISMISSED ON 12/28/18]**

Hrg re: Motion for relief from stay [PP]

ALLY BANK
vs
DEBTOR

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have

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CONT... Vazrik Allahverdi

Chapter 13

any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Vazrik Allahverdi

Represented By
Aris Artounians

Movant(s):

Ally Bank

Represented By
Adam N Barasch

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-23488 Ingrid Irais Ramirez-Regis

Chapter 7

#9.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA, INC
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Ingrid Irais Ramirez-Regis

Chapter 7

Party Information

Debtor(s):

Ingrid Irais Ramirez-Regis

Represented By
Cynthia Grande

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Peter J Mastan (TR)

Pro Se

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10:00 AM

2:18-23729 Aideth M Prestegui

Chapter 13

#10.00 Hrg re: Motion for relief from stay [UD]

BRT 26 LLC
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you

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CONT... **Aideth M Prestegui**

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Aideth M Prestegui

Pro Se

Movant(s):

BRT 26 LLC, A Delaware Limited

Represented By
Paul E Gold

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-23882 Pearl Jeu Lee

Chapter 7

#11.00 Hrg re: Motion for relief from stay [UD]

ANITA SIU
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Movant has not established that the automatic stay does not apply

Deny the request for an order confirming that no stay is in effect. Movant has not established an exception to the automatic stay under 11 U.S.C. 362(b) or (c) because Movant has not obtained a judgment for possession of the Property against the Debtor pre-petition and the Movant has not provided a certification that Debtor endangered the Property or illegally used or allowed to be used a controlled substance on the property. 11 U.S.C. 362(b)(22)-(23).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Relief notwithstanding future bankruptcy cases.

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CONT...

Pearl Jeu Lee

Chapter 7

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request for lack of sufficient cause shown.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Pearl Jeu Lee

Represented By
Kian Mottahedeh

Movant(s):

Anita Siu

Represented By
Wen Chao

Trustee(s):

Elissa Miller (TR)

Pro Se

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10:00 AM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#12.00 Hrg re: Motion for relief from stay [UD]

SMASHSSMA, LLC
vs
DEBTOR

Docket 14

Tentative Ruling:

This Court has been notified, by a telephone call to chambers, that this matter may have been resolved by the parties. The tentative ruling is to continue this matter to 2/5/19 at 10:00 a.m. as a holding date (which may be further continued if a motion under Rule 9019 has been filed and served prior to that date). Appearances are not required on 1/15/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

Movant(s):

KOGAN LAW FIRM

Represented By
Michael S Kogan

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10:00 AM

2:18-20081 Michelle L Kirkland

Chapter 13

#13.00 Hrg re: Motion for relief from stay [NA]

FORD MOTOR CREDIT COMPANY, LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions

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CONT... Michelle L Kirkland

Chapter 13

only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly: granting Movant's motion will result in complete resolution of the issues, and this issue essentially involves third parties, because Movant seeks relief to be able to recover only insurance proceeds with respect to a vehicle that has been "totaled."

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michelle L Kirkland

Represented By
Gregory Grigoryants

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

CONT... Michelle L Kirkland

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:18-24843 Sandra Maribel Mejia

Chapter 13

#14.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 5

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Sandra Maribel Mejia Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sandra Maribel Mejia

Represented By
Scott Kosner

Movant(s):

Sandra Maribel Mejia

Represented By
Scott Kosner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:18-24857 Lance Alan Castro

Chapter 13

#15.00 Hrg re: Motion in individual case for order imposing a stay or continuing the automatic stay as the court deems appropriate

Docket 7

Tentative Ruling:

Grant, subject to the following conditions, and subject to addressing the issues stated in this Court's order setting this hearing (dkt. 17). Appearances required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... Lance Alan Castro

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lance Alan Castro

Represented By
Sanaz S Bereliani

Movant(s):

Lance Alan Castro

Represented By
Sanaz S Bereliani
Sanaz S Bereliani
Sanaz S Bereliani
Sanaz S Bereliani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar

Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:16-21024 Paul Albert Satterlee

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/11/18, 12/18/18

WILMINGTON TRUST
VS
DEBTOR

Docket 36

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Paul Albert Satterlee

Represented By
Onyinye N Anyama

Movant(s):

Wilmington Trust, National

Represented By
Dipika Parmar
Cassandra J Richey
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:16-23067 Jose Mario Avelar

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/11/18

U.S. BANK NATIONAL ASSOC
VS
DEBTOR

Docket 43

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Jose Mario Avelar

Represented By
Roger J Plasse

Movant(s):

U.S. Bank National Association

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:17-20529 Elizabeth Jean Gates

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/6/18, 12/11/18

MTGLQ INVESTORS, L.P.
vs
DEBTOR

Docket 26

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed on
12/19/18 (Dkt. 38)

Tentative Ruling:

Party Information

Debtor(s):

Elizabeth Jean Gates

Represented By
Steven A Alpert

Movant(s):

MTGLQ INVESTORS, L.P., its

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:17-25003 Lydia G Cardenas

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 62

Tentative Ruling:

Tentative Ruling for 1/15/19:

Appearances required. At the hearing on 11/23/18 this Court continued the matter, without objection, for the reasons stated in the tentative ruling for that date. Have the parties come to any consensual resolution?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required. The tentative ruling is to continue this motion for relief from the automatic stay to 1/15/19 at 10:00 a.m. for the following reasons.

Background

Debtor was authorized to make reduced mortgage payments of \$845.68 per month pursuant to this Court's order (dkt. 39) granting Debtor's motion to commence the Loan Modification Management ("LMM") program. That same order provides that Debtor shall continue making monthly payments in that amount until that amount is superseded - e.g., by a "final loan modification amount" (dkt. 39, sec. b.(2)) - and the order also directs Debtor to "file and serve appropriate papers to revise any plan" to reflect the

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CONT... Lydia G Cardenas

Chapter 13

current LMM payments.

Debtor does not dispute that the loan modification was ultimately denied. See dkt. 64, Ex.2. Debtor apparently made the reduced payments of \$845.68/mo. from March through July of 2018, and apparently resumed normal payments of \$1,529.99/mo. in August of 2018.

Meanwhile, Debtor's plan (dkt. 48, filed 8/7/18) provides in Class 2 that Movant (referred to as Rushmore Loan Services) will be repaid the prepetition arrears of approximately \$51,486.00 (Movant's proof of claim 1-1 lists only \$0.06 more) via monthly payments of \$1,050.74, without interest. That plan was confirmed by this Court's order (dkt. 59, 10/11/18).

Analysis

Debtor apparently paid \$845.68 per month from March through July of 2018. Movant asserts that Debtor should have paid \$1,529.99 per month during that time.

Movant's assertion is contrary to this Court's order granting Debtor's motion to commence the LMM program. That order specifically authorizes and directs Debtor to pay the \$845.68 amount.

The question is what to do about the shortfall between \$845.68 and \$1,529.99 now that the loan modification has been denied. The tentative ruling is as follows.

First, the shortfall does not simply disappear. Rather, pursuant to the order granting the LMM motion, now that the loan modification has been denied Debtor is obligated to file and serve a motion to modify the confirmed plan (a "MoMod") under 11 U.S.C. 1329, to reflect that denial.

Second, one form of MoMod would be to repay that shortfall (on top of repaying the prepetition arrears) over the entire remainder of the Plan's term. Another form of MoMod would be to provide for paying the shortfall over a shorter term, such as the typical period for an adequate protection order (usually six months and occasionally up to double that period). There might be other types of MoMod that would be permissible (e.g., providing for a refinancing or "step up" payments).

Third, what type of MoMod is permissible will depend on whether Movant is adequately protected by the proposed terms of repayment of the shortfall. This is akin to the usual analysis under 11 U.S.C. 362(d), except that unlike the usual situation in which a debtor fails to live up to postpetition obligations, in this case Debtor apparently has lived up to such obligations.

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10:00 AM

CONT... Lydia G Cardenas

Chapter 13

Therefore, Debtor's promise of future performance is entitled to greater weight.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lydia G Cardenas

Represented By
Barry E Borowitz
Michael E Clark

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:18-10460 Allyson M Theophile

Chapter 13

#20.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/11/18

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 50

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed on
01/09/19 (Dkt. 55)

Tentative Ruling:

Party Information

Debtor(s):

Allyson M Theophile

Represented By
Matthew D. Resnik

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia
Nancy L Lee

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:18-20426 Matthew Michael Totaro

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/6/18, 12/11/18

HERBERT V. LARSON
VS
DEBTOR

Docket 19

***** VACATED *** REASON: Continue to 2/26/19 at 10:00 a.m. per
stipulation and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Matthew Michael Totaro

Represented By
Michael R Totaro

Movant(s):

Herbert V. Larson Jr.

Represented By
Kelvin J Lo

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:18-21621 Perla Eva Sanchez

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/18/18

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 16

Tentative Ruling:

Tentative Ruling for 1/15/19 (same as for 12/18/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order (see this Court's interim order, dkt. 22, and the debtor's late-filed supplemental evidence of projected contributions from her parents and feasibility, dkt. 26).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required. The parties should be prepared to address whether they will agree to the terms of an adequate protection order, including provisions that will make any future bankruptcy case ineffective to stay any acts against the subject property ("*in rem*" relief). See Debtor's response (dkt. 20).

Proposed order: If this Court is persuaded to grant such relief, then Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this

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CONT... Perla Eva Sanchez

Chapter 13

court's final ruling. See LBR 9021-1(b)(1)(B).

More specifically, the tentative ruling is that (1) on the present record some form of relief from the automatic stay is required, including *in rem* relief, because Debtor appears to have been involved in a "scheme" to "hinder" or "delay" creditors within the meaning of 11 U.S.C. 362(d)(4), due to the filing of this case on 10/2/18, within a relatively short time after the dismissal on 6/5/18 of the bankruptcy case filed by Francisca Sanchez (2:18-bk-15538-WB); but (2) "relief" from the automatic stay does not necessarily mean "termination" of the stay, and could take the form of an adequate protection order ("APO") that (a) requires monthly payments and (b) provides *in rem* relief as follows:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed. Any additional request for relief applicable to future bankruptcy cases is denied (*e.g.*, any request to grant relief against third parties *without* any notice is denied) due to lack of sufficient factual or legal grounds presented in support of such relief.

In other words, if Debtor has the financial ability to cure the arrears and otherwise prosecute this bankruptcy case, then Debtor can do so under an adequate protection order; but Debtor must establish that she has the financial ability to do so. In addition, no future bankruptcy case will affect the property (subject to the limitations in 11 U.S.C. 362(d)(4)), so Debtor and any other person who asserts an interest in the property or who is a signatory to the loan documents cannot continue to file repeated bankruptcy cases simply to delay any foreclosure.

The grounds for such relief are that this Court has the power to grant relief in the form of modifying or conditioning the automatic stay, not just terminating it (11 U.S.C. 362(d)), and the foregoing relief appears to be appropriate in the present circumstances. See *generally In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (even debtor who has excuses for hindering and delaying creditors can be subject to *in rem* relief); *In re Bousheri* (Case

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CONT... Perla Eva Sanchez

Chapter 13

No. 2:15-bk-11345-NB), dkt. 79 (analogous order, in valuation context, addressing effect of unauthorized transfer of interest in property).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Perla Eva Sanchez

Represented By
Lionel E Giron

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 15, 2019

Hearing Room 1545

10:00 AM

2:16-12679 Michael R Totaro

Chapter 11

#23.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 11/6/18

ROBERT R. WINCH
vs
DEBTOR

Docket 304

Tentative Ruling:

Tentative Ruling for 1/15/19:

Deny without prejudice, due to lack of proper service (see this Court's adopted tentative ruling for 11/6/18, in part "(1)"). This hearing will only address (1) Movant's apparent confusion about service (see dkt. 322, pp. 3-4) and (2) Movant's risk of sanctions. See 11 U.S.C. 362(k). Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Note: Because notice has not been properly given, this Court does not reach the merits, including the parties' dispute about whether Ms. Totaro is or is not a proper defendant in the nonbankruptcy action, and whether the automatic stay should or should not be lifted or should be conditioned on the terms set forth in the Debtor's opposition (see dkt. 319, 321, 322).

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling (including the tentative ruling for 11/6/18 which is reproduced below), thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
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10:00 AM

CONT... Michael R Totaro

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the motion (dkt. 304), Debtor's response (dkt. 306, 309, 310, 311, 312), and Movant's reply (dkt. 310), as well as other relevant filed documents and records of this Court regarding this bankruptcy case.

(1) Procedural issues

The tentative ruling is that all procedural deficiencies by Debtor have been cured or should be excused by this Court, but that a continuance is appropriate for Movant to serve all persons on the Creditor Matrix, because of the potential impact on Debtor's ability to make payments under his confirmed chapter 11 plan. See Rules 4001(a)(1) & 9014 (Fed. R. Bankr. P.) (requiring service on debtor, 20 largest nonpriority unsecured creditors, and "such other entities as the court may direct").

The tentative ruling is to set a continued hearing for 12/11/18 at 10:00 a.m., with a deadline of 11/13/18 for Movant to serve all persons on the Creditor Matrix and file a proof of service.

(2) Applicability of automatic stay

Under Debtor's confirmed chapter 11 plan (dkt. 227, Art. IV.B.), 11 U.S.C. 1141(b)&(c), and the confirmation order (dkt. 253) property of the bankruptcy estate has re-vested in Debtor. That has the effect of terminating the automatic stay as to such property (11 U.S.C. 362(c)(1)), but the automatic stay continues in all other respects until this case is closed or dismissed. Therefore Movant's action is stayed because the stay applies to the commencement of any action or proceeding against Debtor that could have been commenced prepetition, and to assess, collect, or recover a prepetition claim. 11 U.S.C. 362(a)(1), (a)(6), & (c)(2). Those restrictions are paralleled by this Court's order confirming Debtor's plan. Dkt. 253, para. 12.

In sum, the tentative ruling is that Movant does in fact need relief from this Court before he may proceed with any action against Debtor.

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10:00 AM

CONT... Michael R Totaro

Chapter 11

(3) Contemplation of limited relief

At the continued hearing, absent persuasive arguments by Movant, Debtor, or other parties in interest, this Court anticipates modifying and conditioning the automatic stay under 11 U.S.C. 362(d)(1) such that Movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations, except for minor modification to address the post-confirmation status of this case).

(a) No enforcement against property subject to chapter 11 plan

To avoid disruption of payments to other creditors, the tentative ruling is to condition and limit relief from the automatic stay such that Movant may not enforce any judgment against any property of Debtor pending further order(s) of this Court (e.g., an order confirming a modified chapter 11 plan that provides for Movant, or an order granting further relief from the automatic stay).

Note: Movant would be permitted to enforce its final judgment by collecting upon any available insurance in accordance with applicable nonbankruptcy law. But, although two insurance companies are named as defendants in Movant's nonbankruptcy complaint (dkt. 304, Ex.A, at PDF p.14), Movant has not established a sufficient likelihood that insurers would pay costs of defense, or any other reason to believe that any insurance would reduce the impact on this bankruptcy case or favor relief from the automatic stay.

(b) Claim allowance, priority, and discharge issues

Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(4) Additional analysis

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include

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CONT... Michael R Totaro

Chapter 11

"modifying or conditioning such stay." *Id.*

"'Cause' is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. The following factors are most significant,

(a) Other defendants

As Debtor acknowledges, there is a "difficulty" in that there are "other defendants not subject to bankruptcy court jurisdiction" (dkt. 306, p.19:14-15). This is the most significant factor in the circumstances presented.

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CONT...

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(b) Expertise of fora

As Debtor's letter to movant acknowledges, California law "does not apply" (dkt. 306, Ex.2, at p.38), and this California Bankruptcy Court does not have any expertise in the laws of Louisiana. In addition, as Movant argues, the Louisiana Courts have experience in water intrusion cases (dkt. 310, at PDF p.3:16-17).

It is true that this Bankruptcy Court has expertise in nondischargeability matters; but as noted separately below that does not appear to be as significant an issue in this case as in typical cases.

(c) Expense and inconvenience

This Court recognizes that, as Debtor argues (dkt. 306, pp.19:16-20:16, & 21:13-20, 22:1-20), litigation in Louisiana not only will be inconvenient for him but likely will be more expensive for him than litigation before this Bankruptcy Court, to the possible detriment of all other creditors. But the tentative ruling is that this consideration is outweighed by the other considerations noted above combined with the fact that litigation in this California Bankruptcy Court would be inconvenient and expensive for Movant. Cf. dkt. 306, pp.22:25-24:1 (Debtor's "balance of hurt" argument).

(d) Nondischargeability appears to be mostly a red herring for present purposes

Debtor has not yet received his discharge under 11 U.S.C. 1141(d)(5). Normally nondischargeability issues have the potential to make a substantial difference to a motion for relief from the automatic stay because, if the parties are not very careful to obtain issue preclusive findings of fact and conclusions of law in the nonbankruptcy forum, the parties might have to re-litigate their disputes in the Bankruptcy Court to determine whether the elements of a nondischargeability claim are met. See, e.g., 11 U.S.C. 523(a)(2)(A). In the present circumstances, however, the tentative ruling is that this consideration should not weigh heavily in the analysis.

As Debtor describes (dkt. 306, pp.15:25-16:9), it might well be that Movant can file a proof of claim and assert whatever nondischargeability claim he might have under 11 U.S.C. 523(a)(2)(A) and (3)(B). But it is not clear to this Court that it will make a substantial difference if the claim is nondischargeable, because Debtor's confirmed chapter 11 plan (dkt. 227, 253) provides for 100% payment to creditors and, although that plan does not include movant, presumably it could be amended under 11 U.S.C. 1127.

True, if (hypothetically) Movant were to prevail on his claims and obtain

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a very large judgment against Debtor then that might force Debtor to amend his Plan to pay only a fraction of creditors' claims. See dkt. 306, Ex.2, at p.39 (suggesting 10% recovery). But Debtor is paying a number of substantial claims, so if Movant files a proof of claim (per 11 U.S.C. 523(c)(3)) and obtains a smaller judgment then presumably the Plan could be amended to provide for 100% payment of that judgment.

In other words, on the present record it appears somewhat likely that the distribution could be the same regardless whether the claim is nondischargeable or not, so this consideration does not appear to have a major impact on whether or not to grant relief from the automatic stay.

Caveat: The immediately preceding paragraph is not intended to constitute any sort of determination on whether a nondischargeability adversary proceeding should or should not be filed, or what might be the consequences of failing to do so or of doing so. The point is only that for purposes of the present motion for relief from the automatic stay this Court believes that nondischargeability issues are not as relevant as they might be in other cases.

(e) Merits of underlying litigation

As Debtor points out, Movant's allegations are vague and his claims may suffer from a number of weaknesses. See *generally* dkt. 306, Ex.2. But those issues can be addressed by whichever forum adjudicates this claim. They do not appear to be sufficient to warrant an outright denial of any relief from the automatic stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

This court anticipates posting a tentative ruling at a later time.

Party Information

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CONT... Michael R Totaro

Chapter 11

Debtor(s):

Michael R Totaro

Represented By
Martina A Slocomb

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#24.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19

Docket 5

Tentative Ruling:

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

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CONT... **Jackies Cookie Connection LLC**

Chapter 11

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Jackies Cookie Connection LLC

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:16-18169 Marlene Aybar

Chapter 13

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

THE BANK OF NEW YORK MELLON, ET AL
VS
DEBTOR

Docket 80

Tentative Ruling:

Tentative Ruling for 1/15/19:

Grant as provided below. At the hearing on 1/8/19 Debtor appeared and this Court was persuaded (dkt. 83) to continue this matter for one week for Debtor to obtain counsel, but meanwhile Debtor filed a motion (dkt. 84) for voluntary dismissal of this case. Appearances required, in case Debtor appears without notifying Movant of her intent to do so (as at the last hearing), but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

There will be no stay

Debtor has filed a request for dismissal of this case (dkt. 84), and once this case is dismissed the automatic stay will be terminated. See 11 U.S.C. 349(b)(3) & 362(c).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

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CONT...

Marlene Aybar

Chapter 13

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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CONT... Marlene Aybar

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marlene Aybar

Pro Se

Movant(s):

The Bank of New York Mellon, et al

Represented By
Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:17-01503 Wellgen Standard LLC v. Maximum Legal (California), LLP et al

#1.00 Cont'd Status Conference re: Complaint for (1) Declaratory Relief;
and (2) Turnover of Property of the Estate Pursuant to 11 U.S.C. § 542
fr. 12/19/17, 03/06/18, 3/20/18, 5/1/18, 6/26/18, 07/17/18, 11/27/18

Docket 1

*** VACATED *** REASON: Continue to 2/5/19 at 2:00 p.m. per ruling
on 12/18/18

Tentative Ruling:

Party Information

Debtor(s):

Layfield & Barrett, APC	Pro Se
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Defendant(s):

Maximum Legal (California), LLP	Pro Se
California Attorney Lending II, Inc.	Represented By Richard W Labowe
Maximum Legal, LLC	Pro Se
Todd C. Wakefield	Pro Se
Joseph Martin Barrett	Represented By Damion Robinson
Richard Pachulski	Represented By James KT Hunter

Plaintiff(s):

Wellgen Standard LLC	Represented By Faye C Rasch
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Trustee(s):

Richard Pachulski (TR)	Represented By
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CONT... Layfield & Barrett, APC

Malhar S Pagay
James KT Hunter

Chapter 11

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 4/10/18, 5/1/18, 6/12/18, 08/07/18, 9/4/18,
10/16/18, 11/6/18, 12/11/18

Docket 7

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges,"

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CONT... Abelino Mariscal Gonzalez

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"Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 1/15/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

(b) BONY/Mellon. The tentative ruling is to approve the Bank of New York Mellon Stipulation (dkt. 52).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

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Abelino Mariscal Gonzalez

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(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 12/11/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties should be prepared to discuss what progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47). This Court is aware of the motion to approve the stipulation with the holder of Class 2A claims, Bank of New York Mellon (the "Mellon Stip," dkt. 52). The tentative ruling is to move the Mellon Stip hearing from 11:00 a.m. to 1:00 p.m., and continue this status conference to the same date and time, with no written Status Report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required.

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CONT... Abelino Mariscal Gonzalez

Chapter 11

(1) Current issues. This Court has reviewed the debtor's draft plan (dkt. 47) and disclosure statement (dkt. 46) and this Court has no issues to raise sua sponte. Has the debtor had any negotiations with secured creditors? Is it more appropriate to allow additional time for such negotiations, or to authorize the debtor to mail a voting package to all parties in interest and set a combined hearing on final approval of the disclosure statement and confirmation of the plan for the same time and date as the continued status conference set forth below?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/7/18:

Continue as set forth below. Appearances are not required on 8/7/18.

(1) Current issues. This Court has no issues to raise sua sponte.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/4/18 at 1:00 p.m. No written status

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report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. The debtor's proofs of service continue to be defective. Elizabeth Cruz declares that she has served the "PROOF OF SERVICE" itself, not the underlying orders. See dkt. 20 at PDF p.2 and dkt. 31 at PDF p.2.

At the hearing counsel is directed to explain why the proofs of service are defective, and what steps will be taken to correct this issue so that it no longer occurs. The deadline is 6/19/18 to file further amended proofs of service of both orders (the order setting principal status conference etc. at dkt. 6, and the bar date order at dkt. 23).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (Order, dkt. 23). See above.

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/7/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/1/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion (dkt. 13). Counsel must address:

(i) Income as of petition date or current? The debtor has filed an amended bankruptcy Schedule I (dkt. 30). Is that actually intended to be a decaration of postpetition income, or a correction of the debtor's income as of the petition date?

(ii) Amended budget motion? Should an amended budget motion needs to be filed and served, or is such notice unnecessary and should the budget be deemed amended, in view of what appears to be an increase of approximately \$168 in the debtor's monthly income (compare dkt. 13 at PDF p.8, debtor's personal income of \$2,800, with dkt. 30, line 7, debtor's personal income of \$2,968)?

(b) Cash collateral motion (dkt. 12). Grant on a final basis, on the same terms as the interim order (dkt.24).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (Order, dkt. 23). **Note:** Timely served? Per the proof of service (dkt. 26, the "POS") the debtor served the POS itself on creditors. Presumably the debtor means that she served the order on creditors (not the POS), but the debtor is directed to file an amended POS saying so, no later than 5/3/18.

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

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Abelino Mariscal Gonzalez

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(c) Continued status conference: 6/12/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Failure to serve order. This Court's order setting this status conference (dkt. 6) directed the debtor to serve a copy of that order on all parties in interest no later than 14 days prior to this status conference. No proof of service appears on the docket. The tentative ruling is to set a deadline of 4/11/18 for the debtor to effect such service, with a caution to counsel that in future such failure may result in sanctions.

(b) Budget motion (dkt. 13). Grant on an interim basis, with a final hearing on the same date at the continued status conference set forth below.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/1/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:18-18929 Newark Special Technologies, Inc. Dba Magorien Hon

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#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/4/18, 10/9/18, 11/6/18, 12/11/18

Docket 14

Tentative Ruling:

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues

(a) Monthly Operating Reports ("MORs")

The November MOR (dkt. 62, p.2) includes numerous entries described as "Funds Transfer." How is the reader to know what that means? The same MOR includes a column of numbers with nothing else next to it (dkt. 62, p.3). How is the reader to know what that means?

(b) Plan and Disclosure Statement ("D/S")

The deadline to file the Plan and D/S is fast approaching (see below). What is the outline of Debtor's intended plan? Has Debtor reviewed Judge Bason's procedures and form of order re same?

(c) Employment of counsel

At the hearing on 12/11/18 this Court adopted the tentative ruling approving counsel's employment, which directed that a proposed order be lodged within 7 days. Why has no such order been lodged?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: 1/31/19 (dkt. 59)

(c) Continued status conference: The tentative ruling is to continue this status conference to 2/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) MORs (dkt. 51, 52, 50 for Aug., Sept. & Oct.)

(i) The Payroll Account continues to show a negative balance. How is that sustainable? (ii) The amended August MOR provides for payments to insider Savita Viradia. Why was there no notice of insider compensation filed and served for this person, and what consequences should follow? (iii) The Tax Account shows no activity, and the Tax Liabilities section is blank. Is Debtor paying and/or reserving for all employment, sales, business, income, and other taxes?

(b) Motion to employ (dkt. 49)

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: The tentative ruling is to continue this status conference to 1/15/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) MORs (dkt. 44, 45)

MOR1 (for August, 2018) shows an ending balance of negative \$4,549.03. MOR2 (for September 2018) shows an ending balance of negative \$4,074.81. Both MORs also show negative postpetition accounts receivable. What does that mean?

Both MORs were also filed late. They were due middle of the month following the reporting period, and this Court's adopted tentative ruling for 10/9/18 directed that the defective August MOR be cured by 10/15/18 but it and the September MOR were not filed until 10/31/18.

Are the (untimely) MORs inaccurate? How can parties in interest and this Court rely on them for current information? If they're accurate, they appear to show losses, or at least an inability to generate profits that would be needed to reorganization.

In view of all the foregoing, should this case be converted or dismissed?

(b) Insider compensation

Debtor's notices of insider compensation (dkt. 46, 47) were not served until 10/24/18, even though this Court's adopted tentative ruling for 10/9/18 directed service no later than 10/12/18. Why?

Meanwhile, although Debtor's principal Neel Viradia declares under penalty of perjury that no unauthorized insider compensation has been paid (dkt. 45, p.16, answer #2), the breakdown of payroll in the MORs apparently shows otherwise (e.g., dkt. 45, p.5, lines 1-2). The form itself states (e.g., dkt. 47, p.2, bottom of page): "[T]his notice ... must be filed and served fifteen days before any pay out of compensation" What consequences should follow from Debtor's apparent violation of that limitation?

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(c) Employment (dkt. 32, superseded by amended application, dkt. 42)

The amended application does not specify whether the \$10,000 fee already paid by Batuk Viradia (and the filing fee), or the \$2,000 he has committed to pay, are loans to Debtor, or gifts, or equity investments, or something else. Nor has he filed a declaration confirming that he understands that proposed counsel's sole loyalty must be to Debtor (not to Mr. Viradia), and that has been informed that there might be conflicts of interest and he may wish to seek separate counsel (e.g., conflicts could exist if Mr. Viradia received any preferential payments or other avoidable transfers, or if Mr. Viradia would prefer that Debtor take a course of action that is not in the best interests of creditors).

More generally, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

The tentative ruling is that, if this case is not dismissed or converted, the employment application must be continued to the date of the continued status conference (set forth below) with a deadline of 11/13/18 for Debtor to file Mr. Viradia's declaration, with a copy of this tentative ruling attached as an exhibit, addressing the issues described above.

(d) Cash collateral. If this case is not dismissed or converted, the tentative ruling is to authorize the use of cash collateral on a final basis, on the same terms as the interim authorization (dkt. 37).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35). Although the order was not timely served (see dkt. 41), the tentative ruling is that the confusion of setting yet another bar date would outweigh the benefit, and that this Court can address any prejudice from shortened notice when and if anyone files a late claim and seeks to have the claim treated as timely.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 12/11/18 at 1:00 p.m. No written status report is required.

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*Warning: special procedures apply (see order setting initial status conference).

Revised Tentative Ruling for 10/9/18:
Appearances required.

(1) Current issues.

(a) Cash collateral. The tentative ruling is to authorize the use of cash collateral as set forth in the tentative ruling for calendar no. 6 (10/9/18 at 1:00 p.m.).

(b) Insider compensation. Local Bankruptcy Rule ("LBR") 2014-1(a) requires a notice and opportunity to object before any insider compensation is paid. But no such notice has been filed, and Debtor's Monthly Operating Report ("MOR") for the month ending 8/31/18 reflects payments to each of two insiders. Dkt. 34, at PDF p.8. The tentative ruling is to direct Debtor to serve the notice using the local form no later than 10/12/18.

(c) Bar date. On 9/5/18 this Court entered its "Order Setting Bar Date: November 9, 2018; and Directing Service by Debtor." Dkt. 24. The debtor failed to serve that order. Why? The tentative ruling is to issue an amended order setting a bar date as set forth below.

(d) MOR (dkt. 34). The MOR appears to be incomplete. For example, it refers to multiple accounts but appears to provide only a combined report; many of the entries are vague or have no description; and page one includes a reference to "Non DIP personal checking (see attached letter)" but no letter or any other explanation is attached. The tentative ruling is to set a deadline of 10/15/18 to file an amended MOR correcting these and any other deficiencies.

(e) Employment (dkt. 25). As highlighted by the objection of the United States Trustee ("UST") (dkt. 28), the parties should be prepared to address (a) the proposed \$12,000 flat fee under 11 U.S.C. 328 and (b) the source of the "loan" for \$10,000 of that fee (dkt. 25, p.8) and the source of the remaining \$2,000 plus the filing fee.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: See above. In view of Debtor's failure to serve the order (dkt.24), the tentative ruling is to issue an amended order setting a bar date of 12/28/18 and directing the debtor to serve

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that order no later than 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/6/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/4/18

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has no issues to raise sua sponte.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 11/1/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/9/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Newark Special Technologies, Inc.

Represented By
Joseph L Pittera

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2:18-12429 Dana Hollister

Chapter 11

#3.00 Hrg re: Second Interim Application of Levene, Neale, Bender, Yoo & Brill L.L.P. for Approval of Fees and Reimbursement of Expenses Incurred as General Bankruptcy Counsel for The Official Committee of Unsecured Creditors for the Period of August 1, 2018 to November 30, 2018.

Docket 738

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 6, 1/15/19 at 1:00 p.m.)

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:18-12429 Dana Hollister

Chapter 11

#4.00 Hrg re: Second interim application for
compensation for Law Offices of David A Tilem

Docket 739

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 6,
1/15/19 at 1:00 p.m.).

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:18-12429 Dana Hollister

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#5.00 Hrg re: Final fees and/or expenses filed
by Jeffrey M Garrison, Accountant

Docket 743

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 6,
1/15/19 at 1:00 p.m.).

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:18-12429 Dana Hollister

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#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18

Docket 1

Tentative Ruling:

Tentative Ruling for 11/6/18:

Appearances required for the Status Conference (calendar no.6) but not for the other matters (the fee applications; calendar nos. 3, 4 and 5 on 1/15/19 at 1:00 p.m.). Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Garrison (Accountant) Fee Application (dkt. 743). Grant. Allow on a final basis \$29,910.40 in fees, and \$0 in expenses, for a total of \$29,910.40.

(b) Tilem (Debtor's Counsel) Fee Application (dkt. 739). Grant. Allow on an interim basis \$211,365.00 in fees and \$2,303.16 in expenses, for a total of \$213,668.16, with a 15% holdback on the fees.

(c) Levene, Neale (Creditors Committee Counsel) Fee Application (dkt. 738). Grant. Allow on an interim basis \$70,996.00 in fees and \$736.50 in expenses, for a total of \$71,732.50.

Proposed orders: Applicants are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Debtor's lack of payment of fees. The parties should be prepared to address Debtor's reported lack of payment of allowed interim fees.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: vacate the current date of 1/29/19 at 2:00 p.m., and set a continued date of 2/26/19 at 2:00 p.m. with a *brief* status report due 2/15/19.

*Warning: special procedures apply (see order setting initial status)

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

This Court has reviewed the status reports filed by Debtor (dkt. 700) and the Agent (dkt. 701).

(a) Expand Kaplan Employment (dkt. 461, 480, 497, 505, 534, 575, 576). There is no tentative ruling, but Agent Dean Rallis should be prepared to apprise the Court of his current position on this motion.

(b) Further extension of exclusivity period (dkt. 685, 694, 695). Grant extension of the exclusivity periods to 3/15/19 to file a plan and 5/15/19 for a plan to be accepted under 11 U.S.C. 1121(c)&(d).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 1/29/19 at 2:00 p.m., with a *brief* status report due 1/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances are not required on 9/4/18.

(1) Current issues.

(a) Dissolution of "Oh Happy Day" (dkt. 544, 579, 583, 602). Grant, provided that all assets (tangible or intangible) in which Oh Happy Day, LLC currently has an interest must continue, after dissolution of that entity, to be administered by the Agent (to the full extent of any interest the debtor has in such assets). See Term Sheet (dkt. 547), section 6 (defining Agent Assets).

Proposed order: The debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Employment of Ballard, Rosenberg firm/Schwettmann as Special Counsel (dkt. 490, 532, 533, 546, 582). Continue to the same date and time as the continued status conference (set forth below), for the reasons set forth in the responses (dkt. 546, 582). In addition, no later than 10/2/18 the debtor is directed to file a supplement clarifying whether the proposed employment is of Mr. Schwettmann individually or his firm.

(c) Expand Kaplan Employment (dkt. 461, 480, 497, 505, 534, 575, 576). Continue to the same date and time as the continued status conference (set forth below), for the reasons set forth in the latest documents (dkt. 575, 576).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/16/18, with a *brief* status report due 10/9/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

This court anticipates issuing or posting a tentative ruling at a later time.

Tentative Ruling for 8/3/18:

Appearances required. The tentative rulings are set forth below. In addition, the tentative ruling is to set a continued status conference on 8/16/18 at 10:00 a.m., or such alternative time as may be ordered at the hearing.

(1) Current issues.

(a) Motion to Confirm Dean Rallis as Agent (dkt. 536). Grant (approve the appointment of Dean Rallis, Esq. as Agent) under the Term Sheet, as amended (see below), and subject to the provisions of this Court's order approving the settlement (dkt. 528, paragraphs 3, 4, and 6-8). The tentative ruling to grant this motion is based on the representation in the motion (dkt. 536, p.9:5-9) that the parties who objected/reserved their rights to object have now consented to the appointment of Mr. Ralis. (This Court disregards the invective, *id.* n.3 & accompanying text.) If that is incorrect then this tentative ruling is subject to any opposition at the hearing (see OST, dkt. 538). This tentative ruling is also based on this Court's review of the other relevant documents. See dkt. 495 (selection of proposed agent), 528 (order approving settlement), 531 (objection), 535 (Committee support), 536 (motion), Application for Order Shortening Time (dkt. 537, 540) and evidence of service (dkt. 541).

Proposed order: Counsel for the debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) 9019 Motion (see Term Sheet, dkt. 445, 528). This Court's Order (dkt. 528) approving Settlement directed the parties to prepare, sign and file a final version of the "Term Sheet" reflecting certain modifications. This Court notes that the debtor appears to have circulated a revised Term Sheet (dkt. 536, Ex.A) that incorporates the changes discussed on the record, although that revised Term Sheet is not "redlined" and this Court has not engaged in any line-by-line review of its terms. In any event, the parties are directed to

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provide a status report on when a declaration will be filed with this Court memorializing the fully executed final Term Sheet.

(c) Motion to Extend Time to Assume or Reject Lease (dkt. 457). The tentative ruling is to continue this motion to the date and time of the continued status conference, for the authorized Agent to consider and take a position on the merits of this motion.

Analysis: Although the debtor argues (e.g., in dkt. 534) that she is prejudiced by any lack of immediate decision on pending matters, the tentative ruling is that the debtor has not established undue prejudice because of (i) the debtor's own delay in selecting a nominee to be the Agent, (ii) the debtor's ability to engage in numerous other activities to attempt to turn around her finances without having to wait for those particular pending matters to be resolved, and (iii) the fact that, as this Court interprets the deadlines in the Term Sheet, "Approval" of the settlement did not occur until "entry" of an order approving the settlement (see dkt. 474, Ex.C, section 1, 1st paragraph, penultimate sentence), and the oral ruling was not entered on the docket, only the written order (dkt. 528) was entered, so the time of Approval (which commences the time for the debtor to perform various tasks under the Term Sheet) did not commence until entry of that written order on 7/25/18.

(d) Motion to Assume and Assign 1629 Griffith Lease (Presbytery) (dkt. 351). Continue to the date and time of the continued status conference, for the authorized Agent to consider the merits of this motion, for the same reasons as stated in section (1)(c) of this tentative ruling, above.

(e) Motion to Expand Scope of Kaplan Employment (dkt. 461, 480, 497, 505, 534). Continue to the date and time of the continued status conference, for the authorized Agent to consider the merits of this motion, for the same reasons as stated in section (1)(c) of this tentative ruling, above.

(f) Scheduling Conference re: Evidentiary Hearing on Motion to Assume 1356 Palmetto Lease (Bridge Tavern/Villain's) (dkt. 187). At the 7/18/18 hearing, this Court was informed that the proposed assignee/buyer had withdrawn. This Court subsequently issued an Order (dkt. 501) deeming the portion of the motion that sought to assign the lease moot and withdrawn, and continuing the portion of the motion that seeks to assume the lease to this hearing solely for scheduling further proceedings on this motion. The parties should be prepared to address a schedule for this motion and/or whether to continue the scheduling matters so that the Agent can determine whether or

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not to pursue this motion and related matters.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: Date and time set forth at the start of this tentative ruling. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/16/18:

Appearances required. The tentative rulings are set forth below. In addition, the tentative ruling is to set a continued status conference on 7/27/18 at 9:00 a.m., or such alternative time as may be ordered at the hearing.

(1) Current issues.

(a) 9019 Motion (see Term Sheet, dkt. 445). This Court will address the objections filed by Mr. Casanova (dkt. 465, 466) and The Presbytery of the Pacific (the "Presbytery") (dkt. 467) and the replies filed by the debtor (dkt. 472) and by the Archbishop/Institute and the Bird Nest (dkt. 474). Among other things, this Court will address whether the Term Sheet can be approved without the further documentation that is contemplated by the settling parties. In that regard, the parties should address the proposed amendment to paragraph 6 of the Term Sheet. See dkt. 474, Ex.C.

This Court expresses no present opinion on those issues. This Court is intentionally withholding any further tentative ruling on those matters so as not to disrupt potential settlement discussions among those parties, but if the parties have not agreed to the proposed amendment to paragraph 6 (or some other resolution) then this Court intends to provide a tentative ruling at the

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commencement of the hearing.

The parties are encouraged to meet and confer about the foregoing issues. If, at the end of the hearing, there are issues that remain to be addressed, then the parties should be prepared to address whether this Court should set a continued hearing on the date and time specified at the start of this tentative ruling or some other date.

(b) Stay relief motion (appellate litigation with Bird Nest and Archbishop/Institute) (dkt. 68). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(c) Exclusivity motion (dkt. 308, 348, 422). Continue to the date and time set forth at the start of this tentative ruling, and meanwhile extend exclusivity for the same amount of time, on the same terms and conditions as this Court's Prior Order (dkt. 422) - *i.e.*, no incurring of fees or expenses for plan-related work. This Court calculates that the extensions would be as follows: (i) The 120-day period specified in section 1121(c)(2) and (d)(1) (deadline for filing a plan) will be further extended from 8/15/18 (see dkt. 422) to and including 9/19/18, and (ii) the 180-day period specified in section 1121(c)(3) and (d)(1) (deadline for acceptance of plan by impaired classes) will be further extended from 10/15/18 (see dkt. 422) to and including 11/19/18.

(d) Cash Collateral motion (dkt. 5). Continue to the date and time set forth at the start of this tentative ruling, and meanwhile extend the interim authorized use of cash collateral through and including the conclusion of the continued hearing subject to the same terms and conditions as previously authorized by this Court (see dkt. 29, 79, 239, 244, 347, 413), if this motion is not mooted by the disposition of the settlement motion.

(e) Bridge Tavern, LLC asset sale motion (dkt. 112). Continue to the date and time set forth at the start of this tentative ruling.

(f) Villain's Tavern reopening motion (dkt. 214). Grant. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(g) Trustee appointment motion (dkt. 332). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(h) Security Deposit refund motion (dkt. 350). Grant. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the

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hearing date. See LBR 9021-1(b)(1)(B).

(i) Budget motion (dkt. 96). Extend the interim authorization through and including the date of the continued hearing and meanwhile approve the budget subject to the same terms and conditions as previously authorized by the Court (see dkt. 340), if this motion is not mooted by the disposition of the settlement motion.

(j) Claim objection (Bird Nest) (dkt. 292). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(k) Claim objection (Institute) (dkt. 296). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(l) Claim objection (Archbishop) (dkt. 294). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(m) Vehicle refinance motion (dkt. 216). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(n) Vehicle relief from Stay motion (dkt. 349). The hearing on this motion has been vacated, and this matter is off calendar (see Adequate Protection Order, dkt. 444).

(o) Motion to Assume and Assign 1629 Griffith Lease (dkt. 351). Continue to the date and time set forth at the start of this tentative ruling.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: Date and time set forth at the start of this tentative ruling. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/22/18:

Appearances required.

(1) Current issues.

(a) Urbanlime/Haro employment (dkt. 93, 253), Bridge Tavern (Villain's) Reopening Motion (dkt. 214, previously granted, dkt. 339, but rescheduled per dkt.369 para. 4.5), Sale Motion (dkt. 112, temporarily denied, dkt. 369, 385) and Lease Assignment Motion (dkt. 187, re-set for hearing, dkt. 388). The parties should be prepared to address the issues set forth in this Court's orders (dkt. 369, 378, 385, 388) setting this hearing.

(b) Motion to extend exclusivity (dkt. 308, 312, 333, 348). The tentative ruling is to preserve the status quo by:

(i) prohibiting the estate from incurring any fees or expenses relative to any contemplated plan between time this tentative ruling is posted and the conclusion of the hearing on the motion to appoint a trustee (dkt. 332, the "Trustee Motion"), currently scheduled for 7/10/18 at 2:00 p.m.;

(ii) if the Trustee Motion is denied, then extending exclusivity through at least 8/14/18 (any further extension will be addressed at the hearing on 7/10/18 at 2:00 p.m.), so that Mr. Tilem will have the time he has stated he would need to draft a plan (approximately 30 days); and

(iii) if the Trustee motion is granted, then terminate exclusivity.

(c) Cash collateral motion (dkt. 5, 14, 15, 29, 74, 151, 152, 163, 164, 167, 168, 171, 172, 176, 185, 244). The tentative ruling is to continue this matter to 7/10/18 at 2:00 p.m., and meanwhile authorize the continued use of cash collateral through the conclusion of that continued hearing.

(d) Relief from stay motion (dkt. 68, 79, 141, 147, 154, 162, 222 section v., 270, 312). The tentative ruling is to continue this matter to 7/10/18 at 2:00 p.m.

(e) Expansion of Insul employment (dkt. 305). Please see calendar no. 2 (6/22/18 at 10:00 a.m.).

(f) Hearings on 7/10/18. Some matters in this case have been self-calendared for 7/10/18 at 1:00 p.m. The tentative ruling is that all matters set for 7/10/18 in this case will be heard at 2:00 p.m.

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- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 7/10/18 at 2:00 p.m., status report due 7/5/18 at noon.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

This court anticipates posting a tentative ruling at a later time. **[Note: no further tentative ruling was posted.]**

Tentative Ruling for 5/7/18:

[See Memorialization of Tentative Rulings for 5/7/18 (dkt. 234, 236, 238, 239)]

Tentative Ruling for 5/3/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The only issue this Court intends to address is a continued hearing date in view of the last-minute papers that were filed, to fit the parties' and this Court's own needs.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

Appearances required by counsel for the debtor. Other parties in interest are invited but not required to appear.

Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Cash flow and cash collateral motion (dkt. 5, 14, 15, 29). This Court's written order (dkt. 29) erroneously lists the continued hearing as 3/20/18 instead of 4/17/18 at 2:00 p.m., as orally ordered at the hearing on 3/9/18. Nevertheless, it is appropriate in connection with this Status Conference to address the debtor's current and projected cash flow and related issues.

This Court was not persuaded at the hearing on 3/9/18 that the debtor can generate positive cash flow. The debtor is directed to provide a brief update on any plans to generate positive cash flow from her various businesses and properties. It is also appropriate for other parties in interest to address whether there has been adequate disclosure to date regarding the finances of those businesses and properties. The debtor is cautioned that the declaration due on 3/27/18 must provide comprehensive disclosures regarding those businesses and properties: if the debtor cannot show reasonable prospects for positive cash flow within a reasonable time then this Court might have to grant relief from the automatic stay (upon a proper motion), or convert or dismiss this bankruptcy case, at least if the debtor does not abandon unprofitable businesses or properties.

(b) Employment applications. The parties should be prepared to address the oppositions (dkt. 56, 57) and the direct and indirect source(s) of funds used by the debtor to pay prepetition retainers (see dkt. 48, *and cf.* dkt. 9, p.6, dkt. 18, p.8, dkt. 20, p.8 - blank spaces instead of disclosure), including when the liens against the 1902 property arose (dkt. 48, Ex.A). In addition, the parties should be prepared to address the following issues:

(i) Proposed bankruptcy counsel - Tilem (dkt. 9, 10): (i) Why were resumes for associates, paralegals, and persons who are "of counsel" to

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the firm not included? (ii) Has counsel waived or amended the provisions in the retainer agreement regarding the "evergreen" retainer; "overtime" rates, and any attorney's lien? (iii) As for proposed out-sourcing, counsel must address whether employment of such counsel could result in imputed or actual conflicts of interest from any work performed by such attorneys for their own clients or for other law firms.

(ii) Proposed special counsel: the Robins firm and Horvitz firm (dkt. 18, 19, 20, 21). The hourly rates of proposed counsel at the Robins firm and Horvitz firm are substantially greater than those for the debtor's proposed general bankruptcy counsel and the Snyder firm. How will the debtor - acting as a debtor in possession with the duties of a trustee for the benefit of creditors - assure that the potential benefits are not outweighed by the costs that can be reasonably anticipated in connection with the ongoing litigation with Birds Nest, the Archbishop, and the Institute (as those terms are defined in the parties' papers)?

(iii) Proposed special counsel: the Snyder firm (dkt. 36, 37). (i) What is the nature of the litigation in which that firm represents the debtor and co-plaintiff, Bridge Tavern, LLC against Odysseuss Investment Group, LLC? (ii) What are the potential costs/risks and benefits? (iii) Is there any actual or potential conflict of interest between the two plaintiffs (e.g., if any judgment in their favor were to be allocated between them in a way that is unfavorable to one or the other)? (iv) From the description at the status conference on 3/9/18 it seemed that the Snyder firm might be assisting the debtor now or in future in transactional matters - is that so?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/17/18 at 2:00 p.m., status report due 4/3/18. (see order, dkt. 30).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/9/18:

[no tentative ruling was posted for this hearing]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:17-24273 Beverly Lee Monroe

Chapter 13

#1.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/10/18, 9/4/18, 10/9/18, 11/6/18, 12/04/18,
12/20/18

REDIGER INVESTMENT MORTGAGE FUND, LLP
vs
DEBTOR

Docket 38

*** VACATED *** REASON: Withdrawn [dkt. 69]

Tentative Ruling:

Tentative Ruling for 12/20/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This hearing has been continued multiple times for Debtor to sell the property (see, e.g., dkt. 51, 53, 55, 59, 62, 65). Has the sale closed?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/4/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 9/4/18 hearing, this Court continued the matter at the debtor's request for more time to sell the property. Thereafter the matter was further

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CONT... **Beverly Lee Monroe**

Chapter 13

continued by stipulation and order thereon (dkt. 51, 53). Prior to the scheduled 11/6/18 hearing, the matter was once again continued by stipulation and order thereon (stipulation agreed to orally at confirmation hearing of Debtor's chapter 13 plan, order thereon dkt. 59). Since the order on Debtor's stipulation, this Court has granted Debtor's motion for authority to sell real property, subject to the Chapter 13 Trustee's comments and objections (dkt. 55, order thereon dkt. 62).

There is no tentative ruling, but the parties should be prepared to discuss the status of the sale of the property, and any other matters relevant of this motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 7/10/18 hearing, this Court continued the matter at the debtor's request for more time to seek refinancing (see the debtor's response, dkt. 42). There is no tentative ruling, but the parties should be prepared to address the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 13

Tentative Ruling for 7/10/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they will agree to a continuance for refinancing as requested by the debtor (see the debtor's response, dkt. 42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Beverly Lee Monroe

Represented By
Stephen S Smyth

Movant(s):

Rediger Investment Mortgage Fund

Represented By
Misty A Perry Isaacson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-11744 B&B Liquidating, LLC

Chapter 11

Adv#: 2:18-01334 Siena Lending Group, LLC v. Great American Group Advisory & Valuation

#2.00 Cont'd hrg re: Motion to Dismiss Adversary Proceeding
fr. 1/8/19

Docket 2

Tentative Ruling:

Please see the tentative ruling for the *Siena* adversary status conference
(calendar no. 4, 1/15/19 at 2:00 p.m.).

Party Information

Debtor(s):

B&B Liquidating, LLC

Represented By
Brian L Davidoff

Defendant(s):

Great American Group Advisory &

Represented By
Razmig Izakelian
Jennifer L Nassiri
Kenneth John Shaffer

Plaintiff(s):

Siena Lending Group, LLC

Represented By
Leo D Plotkin

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2:18-11744 B&B Liquidating, LLC

Chapter 11

Adv#: 2:18-01334 Siena Lending Group, LLC v. Great American Group Advisory & Valuation

#3.00 Hrg re: Motion to Remand Removed Action
by Adversary Plaintiff Siena Lending Group LLC

Docket 12

Tentative Ruling:

Please see the tentative ruling for the *Siena* adversary status conference
(calendar no. 4, 1/15/19 at 2:00 p.m.).

Party Information

Debtor(s):

B&B Liquidating, LLC

Represented By
Brian L Davidoff

Defendant(s):

Great American Group Advisory &

Represented By
Razmig Izakelian
Jennifer L Nassiri
Kenneth John Shaffer
Stephen A Broome

Plaintiff(s):

Siena Lending Group, LLC

Represented By
Leo D Plotkin

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2:18-11744 B&B Liquidating, LLC

Chapter 11

Adv#: 2:18-01334 Siena Lending Group, LLC v. Great American Group Advisory & Valuation

#4.00 Cont'd Status Conference re: Removal
fr. 01/08/19

Docket 1

Tentative Ruling:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 23), the Motion for Remand (dkt. 12), the Motion to Dismiss (dkt. 2) and the other filed responses, documents, and records in this adversary proceeding.

(1) Sequence: Motion to Remand Prior to Motion to Dismiss

The tentative ruling is to consider the Motion to Remand first. Even when there was a question as to which of two bankruptcy courts should decide a remand motion, it has been held that a Bankruptcy Court did not abuse its discretion by deciding a remand motion before a venue transfer motion. See *In re Caesars Ent. Operating Co., Inc.*, 588 B.R. 233 (9th Cir. BAP 2018). It is all the more appropriate in this case to decide the forum issue (the remand motion) before reaching the merits.

(2) Remand is appropriate on a discretionary basis

(a) Jurisdiction

The tentative ruling is that this Court does not have "related to" jurisdiction because, for the reasons argued by Siena, there is no "conceivable" effect on the bankruptcy estate within the meaning of the *Pacor* test, as applied in the Ninth Circuit. See *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988) (adopting the Third Circuit *Pacor* test). The estate lacks assets to pay claims or indemnify Siena, and any dispute involving 11 U.S.C. 327 is distinct from the claims in the removed action. Accordingly, the removed action has no "conceivable" effect on Debtor's bankruptcy estate and therefore, this Court does not have jurisdiction. See *Celotex Corp. v. Edwards*, 514 U.S. 300, 308 (1995).

(b) Discretionary remand

Alternatively, the tentative ruling is that the discretionary factors

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CONT... **B&B Liquidating, LLC**

Chapter 11

strongly favor remand. See generally *In re Cedar Funding, Inc.*, 419 B.R. 807, 820 n.18 (9th Cir. BAP 2009) (listing fourteen non-exclusive equitable factors to consider when deciding a remand motion). The most important factors are that the removed proceeding only involves state law; Debtor is not a party; the estate will not be impacted by any recovery or loss; Plaintiff's alleged claims arose pre-petition; and Plaintiff has exercised its right to a jury trial. As to any burden on this Court's docket, that factor is neutral because the State courts are also busy (and, at least on a temporary basis, there is the likelihood of a backup of cases in the near future if the federal government's partial shutdown continues).

For both of the foregoing alternative reasons, this Court's tentative ruling is to grant the Motion for Remand.

(3) Motion to Dismiss

The tentative ruling is not to hear the Motion to Dismiss, in view of the foregoing tentative ruling to grant the Motion to Remand.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

B&B Liquidating, LLC

Represented By
Brian L Davidoff

Defendant(s):

Great American Group Advisory &

Represented By
Razmig Izakelian
Jennifer L Nassiri

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2:00 PM

CONT... B&B Liquidating, LLC

Kenneth John Shaffer

Chapter 11

Plaintiff(s):

Siena Lending Group, LLC

Represented By
Leo D Plotkin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

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2:18-11744 B&B Liquidating, LLC

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/22/18, 3/20/18, 5/1/18, 5/29/18, 6/12/18,
08/14/18, 9/18/18, 11/6/18, 12/11/18, 01/08/19

Docket 19

Tentative Ruling:

Revised Tentative Ruling for 1/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues

(a) Siena v. Great American (Adv. 18-1334)

See tentative ruling in *Siena* adversary status conference, calendar no. 4 (1/15/19 at 2:00 p.m.).

(b) Dismissal of bankruptcy case

The parties should be prepared to discuss whether and when this case should be dismissed, pursuant to this Court's prior order (dkt. 254).

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: Timely served (dkt. 155, 163, 167).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: If this case is not dismissed, the tentative ruling is to continue the Status Conference to 2/26/19 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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CONT... **B&B Liquidating, LLC**

Chapter 11

appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/8/19:

Continue to 1/15/19 at 2:00 p.m. to be concurrent with upcoming hearings in the pending adversary proceeding (Adv. No. 2:18-ap-01334-NB).

Appearances are not required on 1/8/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues

(a) Fee applications

Grant in full:

(i) Debtor's counsel: \$291,117.00 in fees and \$825.60 in expenses for a total of \$291,942.60 to Greenberg Glusker Fields Claman & Machtinger LLP (dkt 257);

(ii) Debtor's consultants: \$139,590.00 in fees to NV Consulting Services (dkt. 259);

(iii) Committee counsel: \$120,080.00 in fees and \$2,058.69 in expenses for a total of \$122,138.69 to Pachulski Stang Ziehl & Johnes LLP (dkt 256); and

(iv) grant all additional relief requested in the applications (e.g., directing Siena to pay the balance of the carve-outs).

(b) Declarations of Andrew S. Conway (dkt. 267) and Nellwyn Voorhies

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(dkt. 268) Re: Conditional Dismissal

The parties should be prepared to address (i) whether the purported past due October 2018 rents and charges have been paid to Twelve Oaks Mall, LLC, (ii) whether the balance purportedly owed to noticing agent Donlin, Recano & Co., Inc. have been paid, and (iii) whether all other conditions for dismissal in this Court's order (dkt. 254) have been or will be satisfied, and whether this Court should set briefing schedules or establish any other procedures to resolve whatever issues might be outstanding.

(c) B&B Bachrach, LLC Motion for Final Decree (dkt. 324)

The tentative ruling is to grant the Motion for Final Decree and enter an order closing that case.

(2) Deadlines/dates. This case was filed on 2/16/18.

(a) Bar date: Timely served (dkt. 155, 163, 167).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: Continue to 1/8/19 at 2:00 p.m., in view of the conditions involved in the slightly deferred dismissal requested by Debtor and the Committee. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 12/11/18:

This court anticipates posting a tentative ruling at a later time.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

B&B Liquidating, LLC

Represented By
Brian L Davidoff

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2:00 PM

2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#6.00 Cont'd hrg re: Final Fee Application for Approval of Professional Compensation for Legal Services Rendered and Reimbursement of Expenses Incurred by Debtor's Counsel, Nicholas Gebelt Fee Period October 16, 2017 to December 18, 2018 fr. 01/08/19

Docket 343

Tentative Ruling:

Tentative Ruling for 1/15/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no. 7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:00 PM

2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#7.00 Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19

Docket 1

Tentative Ruling:

**Revised Tentative Ruling for 1/15/19:
Appearances Required**

(1) Current Issues

(a) Final Fee Application for Debtor's Counsel (Checkmate, dkt. 249, 250, 253, 255, 257, 258, 261, 264; and Sakurai, dkt. 343, 346, 352, 355, 356, 363, 367)

The applications seek \$350,846.10 (Checkmate) and \$118,796.75 (Sakurai). This Court has allowed a total of \$300,000, and set this continued hearing to address the balance of \$169,642.85. See Interim Fee Orders (dkt. 261, Checkmate; dkt. 363, Sakurai).

The Fresco parties' objections note that this Court has on more than one occasion expressed grave concerns about whether these Debtors have adequately prosecuted these bankruptcy cases. Of course, this Court expects that counsel for the debtors would not in any way have participated in any attempts by these Debtors to mislead or obstruct creditors in these cases, but that is not the end of the inquiry.

On the one hand, when there are legitimate strategic or tactical reasons to chose among different courses of action, counsel for Debtors usually must act at their clients' direction, even if they might harbor some doubts about the efficacy of those choices. On the other hand, in addition to the ethical limits of what counsel may do at their clients' direction, counsel are only permitted "reasonable compensation for actual, necessary services" (11 U.S.C. 330(a)(1)(A) (emphasis added)), and in determining what compensation is reasonable this Court "shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including [among other things] whether the services were necessary to the

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CONT... Yuichiro Sakurai and Akemi Sakurai

Chapter 11

administration of, or beneficial at the time at which the service was rendered toward the completion of, [these bankruptcy cases]."

In these cases there are open questions about (i) Debtors' own acts and omissions, and whether Debtors were or were not engaging in a lack of diligent prosecution of these cases or other misconduct, (ii) whether Debtors, if deposed or examined at trial on those issues, will or will not assert advice of counsel, and (iii) whether, regardless of the foregoing issues, counsel for Debtors can satisfy the above-referenced statutory requirements. For all of these reasons, the tentative ruling is that the Fresco parties must have a reasonable period of time in which to conduct discovery to investigate Debtors' apparent failures to prosecute these cases or other misconduct, and whether, in view of the results of any such discovery, the compensation sought by counsel for Debtors is for "necessary" services and is "reasonable" in dollar amount, given all of the facts and circumstances.

Meanwhile, although this Court recognizes that all interim compensation may be revisited in connection with any final award, the question is how much to award on an interim basis, and whether any disbursed funds must be held in trust. The tentative ruling is to award another \$35,000 to counsel for Debtors, to be allocated pro rata in proportion to their outstanding fee requests, without requiring any portion of those funds to be held in trust, but also without prejudice to allowance of a greater or lesser final award.

The parties should be prepared to address the schedule for discovery on the issues outlined above. The tentative ruling is that a five month period is appropriate.

Then, in connection with any final fee award, or at such other time as this Court may later determine, the Fresco parties' objections can be revisited with the benefit of both (i) any discovery and (ii) any subsequent developments. For example, any additional disclosures and/or recoveries in the Fower/Radiology litigation might shed light on whether Debtors' and their counsel's strategies and tactics in dealing with those parties were appropriate at the time they were made. (This Court emphasizes that any subsequent developments would be relevant only to the extent they shed light on what was reasonable at the time the legal services were rendered - not for purposes of "20/20 hindsight.")

(2) Deadlines/dates. This case was filed on 10/16/17.

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CONT...

Yuichiro Sakurai and Akemi Sakurai

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- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.
 - (c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 3/26/19 at 2:00 p.m. (status report due 3/19/19).
- *Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Rulings for 10/26/17 through 1/8/19:

[OMITTED FOR BREVITY]

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:00 PM

2:17-22648 Checkmate King Co., LTD

Chapter 11

Adv#: 2:18-01062 Checkmate King Co., LTD v. Radiology Solutions Corp. et al

#8.00 Cont'd Status Conference re: Complaint for (1) Breach of Contract; (2) Claim and Delivery; (3) Conversion; (4) Breach of Guaranty; (5) Fraud; (6) Preliminary Injunction; and (7) Constructive Trust fr. 5/8/18, 6/12/18, 6/19/18, 07/10/18, 08/14/18, 9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

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CONT... Checkmate King Co., LTD

Chapter 11

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18 (same as for 6/19/18):

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 2, 7/10/18 at 2:00 p.m.).

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current Issues.

(a) Joint Status Report and Notice of Continuances. This Court's 5/8/18 tentative ruling (see below) was not opposed, so it became this Court's actual ruling.

This Court directed (i) Checkmate to file and serve a notice of continuances attaching and incorporating by reference the deadlines in that tentative ruling by 5/7/18, and (ii) the parties to file a brief joint status report by 5/29/18. As of the preparation of this tentative ruling, none of the parties have complied. The parties are cautioned that failure to abide by applicable deadlines in future may result in adverse consequences.

(b) Motion for TRO & Claim and Delivery (adv. dkt. 10).

Plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") has filed a stipulation (adv. dkt. 30) with defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") for turnover of equipment. But Checkmate has not provided any evidence that it has relief from the automatic stay and consent of the Chapter 7 Trustee in the RS and Fower bankruptcy cases for such turnover (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA). The tentative ruling is to set a deadline of 6/19/18 for Checkmate to file a declaration attaching evidence sufficient to establish those things, and lodge a revised proposed order to approve the stipulation.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time. Continue to 7/17/18 at 2:00 p.m., *brief* joint status report due 7/3/18.

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CONT... **Checkmate King Co., LTD**

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

The tentative ruling is to continue all pending matters in this adversary proceeding to 6/12/18 at 2:00 p.m. for the reason stated below, with a brief joint status report due 5/29/18, and with a deadline of 5/7/18 for the plaintiff to file and serve a notice of continuances attaching and incorporating by reference the deadlines in this tentative ruling (assuming that this Court is not persuaded to depart from this tentative ruling). Appearances are not required on 5/8/18.

(1) Current Issues. This Court has reviewed the parties' status reports (adv. dkt. 24 & 26) and the other filed documents and records in this adversary proceeding.

(a) Motion for TRO & Claim and Delivery (adv. dkt. 10). At the 4/9/18 hearing on this motion, counsel for plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") apprised this Court of the bankruptcy filings of defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA) and requested a continuance of this hearing to allow time to obtain orders granting relief from stay with annulment. In the Joint status report (adv. dkt. 24), Checkmate states that the hearings on the relief from stay motions are scheduled for 5/15/18. Accordingly, the tentative ruling is to continue this motion to the date and time set forth at the start of this tentative ruling.

(b) Siemens Motion to Dismiss (adv. dkt. 27, the "MTD"). Defendant Siemens Medical Solutions USA, Inc. ("Siemens") has properly self-calendared its MTD for 6/12/18 at 11:00 a.m. Siemens anticipates that it may be voluntarily dismissed by plaintiff (see adv. dkt. 24), but if that does not occur then this Court anticipates that the MTD may take 15 minutes or more

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Chapter 11

to hear. This Court's practice is that matters anticipated to take 15 minutes or more are heard on the 2:00 p.m. calendar (not available for self-calendaring, except by permission of this Court). Therefore the tentative ruling is to re-calendar the MTD from 11:00 a.m. to 2:00 p.m., which is concurrent with the other matters in this adversary proceeding that are on today's calendar.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

Defendant(s):

Radiology Solutions Corp.

Represented By
Vatche Chorbajian

George Tyler Fower

Represented By
Vatche Chorbajian

Siemens Medical Solutions USA Inc

Represented By
Marsha A Houston

Plaintiff(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:17-22648 Checkmate King Co., LTD and Radiology Solutions Corp.

Chapter 11

#9.00 Cont'd hrg re: Final Fee Applicaiton for Compensation for Legal Services Rendered and Reimbursement of Expenses Incurred by Debtors Counsel, Namely Law Office of Robert M. Aronson fr. 01/08/19

Docket 249

Tentative Ruling:

Tentative Ruling for 1/15/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no. 7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:17-22648 Checkmate King Co., LTD and Radiology Solutions Corp.

Chapter 11

#10.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19

Docket 1

Tentative Ruling:

Tentative Ruling for 1/15/19:

Please see the tentative ruling from the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar

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no. 11, 9/4/18 at 2:00 p.m.).

Chapter 11

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

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CONT... **Checkmate King Co., LTD and Radiology Solutions Corp.** **Chapter 11**

- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)
 - (b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.
 - (c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:
Appearances required.

- (1) Current issues.
- (a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).
These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).
- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)
 - (b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

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CONT...

Checkmate King Co., LTD and Radiology Solutions Corp.

Chapter 11

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... **Checkmate King Co., LTD and Radiology Solutions Corp.** **Chapter 11**

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status

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CONT... **Checkmate King Co., LTD and Radiology Solutions Corp.** Chapter 11

report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... **Checkmate King Co., LTD and Radiology Solutions Corp.** Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

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CONT...

Checkmate King Co., LTD and Radiology Solutions Corp.

Chapter 11

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on

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CONT... Checkmate King Co., LTD and Radiology Solutions Corp.
a final basis.

Chapter 11

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to

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CONT... Checkmate King Co., LTD and Radiology Solutions Corp. Chapter 11

serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:00 PM

2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

Adv#: 2:18-01057 Riverwood Gas and Oil LLC v. Bureau of Land Management

#11.00 Cont'd hrg re: Motion to dismiss the
second amended complaint
fr. 10/2/18, 12/4/18, 12/18/18

Docket 36

***** VACATED *** REASON: Continued to 2/26/19 at 2:00 p.m. [dkt. 44]**

Tentative Ruling:

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Bureau of Land Management

Represented By
Kevin P VanLandingham

Movant(s):

Bureau of Land Management

Represented By
Kevin P VanLandingham

Plaintiff(s):

Riverwood Gas and Oil LLC

Represented By
Luis A Solorzano
Giovanni Orantes

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2:00 PM

2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

Adv#: 2:18-01057 Riverwood Gas and Oil LLC v. Bureau of Land Management

#12.00 Cont'd Status Conference re: Complaint for Damages, Declaratory Relief and Injunctive Relief for: (1) Violation of Automatic Stay; and (2) Turnover Under 11 U.S.C. § 542 fr. 05/08/18, 06/26/18, 09/18/18, 10/2/18, 12/4/18, 12/18/18

Docket 1

***** VACATED *** REASON: Continued to 2/26/19 at 2:00 p.m. [dkt. 44]**

Tentative Ruling:

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Bureau of Land Management

Represented By
Kevin P VanLandingham

Plaintiff(s):

Riverwood Gas and Oil LLC

Represented By
Luis A Solorzano
Giovanni Orantes

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2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

Adv#: 2:17-01326 Riverwood Gas and Oil LLC v. Western States International et al

#13.00 Cont'd Status Conference re: Complaint 1) Breach of Written Contract; 2) Breach of Implied Contract and Fair Dealings; 3) Interfering with Economic Relationship; 4) Slander of Title; 5) Quiet Title; 6) Declaratory Relief
fr. 8/22/17, 11/14/17, 1/23/18, 02/13/18, 03/06/18, 4/17/18, 5/8/18, 6/26/18, 9/18/18, 10/2/18, 12/4/18, 12/18/18

Docket 1

***** VACATED *** REASON: Continued to 2/26/19 at 2:00 p.m. The order entered in the adv proceeding 18-01057 [dkt. 44]**

Tentative Ruling:

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Phoenix Oil Gas Inc.

Pro Se

JNDDC, LLC.

Pro Se

Flavio M. Rodriguez

Pro Se

Longbow LLC.

Represented By
D Max Gardner

Leonard Kroyton

Pro Se

Glenn Morinaka

Pro Se

James Robert Zadko

Pro Se

Derek Wilshee

Pro Se

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CONT... Riverwood Gas and Oil LLC

Chapter 11

Michael Smushkevich	Pro Se
DOES 1 through 10, inclusive	Pro Se
David Smushkevich	Pro Se
Alex Gendelman	Pro Se
Tatyana Grukhhina	Pro Se
United Pacific Energy Operations	Pro Se
Charles Ross	Pro Se
Tearlach Resources (California) LTD	Pro Se
Gas and Oil Technologies, Inc.	Pro Se
United Pacific Energy Corporation	Pro Se
Ingrid Aliet-Gass	Pro Se
Western States International	Represented By Mitchell E Rishe
Paul Guiller	Pro Se

Plaintiff(s):

Riverwood Gas and Oil LLC	Represented By Mike Montes
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2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

#14.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 5/1/18, 5/8/18, 6/26/18, 9/18/18, 10/2/18,
12/4/18, 12/18/18

INGRID ALIET-GASS
vs
DEBTOR

Docket 130

*** VACATED *** REASON: Continued to 2/26/19 at 2:00 p.m. The order
entered in the adv proceeding 18-01057 [dkt. 44]

Tentative Ruling:

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Movant(s):

Ingrid Aliet-Gass

Pro Se

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2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

#15.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/29/16, 12/13/16, 1/10/17, 2/7/17, 4/4/17,
5/2/17, 06/13/17, 7/11/17, 8/22/17, 11/14/17,
1/23/18, 02/13/18, 03/06/18, 4/17/18, 5/8/18,
6/26/18, 9/18/18, 10/2/18, 12/4/18, 12/18/18

Docket 1

***** VACATED *** REASON: Continued to 2/26/19 at 2:00 p.m. The order
entered in the adv proceeding 18-01057 [dkt. 44]**

Tentative Ruling:

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

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8:30 AM

2: -

Chapter

#0.00 ***NOTE: Due to the (partial) government shutdown, many matters on future calendars will be continued.***

Docket 0

Tentative Ruling:

- NONE LISTED -

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Thursday, January 24, 2019

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8:30 AM

2:18-23052 Patrick McTizic

Chapter 13

#1.00 Hrg re: Motion for order determining value of collateral [11 U.S.C. section 506(a), FRBP 3012] [2014 Chrysler 200 (VIN#1C3CCBBB4EN185098)]

Docket 10

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patrick McTizic

Represented By
Kevin Tang

Movant(s):

Patrick McTizic

Represented By
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-23052 Patrick McTizic

Chapter 13

#2.00 Hrg re: Motion for order determining value
of collateral [11 U.S.C. section 506(a), FRBP 3012]
[2016 Chevrolet Stingray]

Docket 11

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patrick McTizic

Represented By
Kevin Tang

Movant(s):

Patrick McTizic

Represented By
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:18-23679 Richard Wayne Aleshire and Shelee Lynnette Aleshire

Chapter 13

#3.00 Hrg re: Motion for order determining value
of collateral [11 U.S.C. section 506(a), FRBP 3012)

Docket 19

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Richard Wayne Aleshire

Represented By
Barry E Borowitz

Joint Debtor(s):

Shelee Lynnette Aleshire

Represented By
Barry E Borowitz

Movant(s):

Richard Wayne Aleshire

Represented By
Barry E Borowitz
Barry E Borowitz

Shelee Lynnette Aleshire

Represented By
Barry E Borowitz

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CONT... Richard Wayne Aleshire and Shelee Lynnette Aleshire

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

8:30 AM

2:15-10438 Tiffany Ringo

Chapter 13

#4.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

Docket 49

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether the chapter 13 trustee is satisfied with Debtor's explanation for requiring a modification (see the debtor's supplemental declarations, dkt. 56, 57) and (c) whether Debtor has provided the chapter 13 trustee with the 2016 and 2017 tax returns (see the trustee's objection, dkt. 50).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tiffany Ringo

Represented By
William J Smyth
Stephen S Smyth
Andrew Edward Smyth

Movant(s):

Tiffany Ringo

Represented By
William J Smyth
Stephen S Smyth
Andrew Edward Smyth

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CONT... Tiffany Ringo

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

8:30 AM

2:17-16372 Eva Anderson

Chapter 13

#5.00 Hrg re: Amended Motion to Modify Plan

Docket 94

Tentative Ruling:

Grant. The proof of service and declaration of Debtor's counsel (dkt. 102) adequately addresses the issues raised in this Court's order (dkt. 99) and no opposition has been filed by the deadline set forth in that order. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Eva Anderson

Represented By
Edmond Richard McGuire

Movant(s):

Eva Anderson

Represented By
Edmond Richard McGuire

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:18-11823 Maria Bertha Godinez

Chapter 13

#6.00 **[CASE DISMISSED ON 1/23/19]**

Hrg re: Motion for Authority to Incur Debt (Ch 13)

Docket 38

*** VACATED *** REASON: Case dismissed

Tentative Ruling:

Party Information

Debtor(s):

Maria Bertha Godinez

Represented By
Matthew D. Resnik

Movant(s):

Maria Bertha Godinez

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:18-20656 Thomas Vallez

Chapter 13

#7.00 Hrg re: Motion for Authority to Sell or Refinance
Real Property under LBR 3015-1 (Ch 13)

Docket 22

Tentative Ruling:

Grant, contingent on (1) full satisfaction of the lien of RoundPoint Mortgage Servicing Corporation ("Secured Creditor"), or in an amount agreeable to Secured Creditor at the time of closing, (2) a provision in the order that Debtor shall not be allowed to consummate the sale and close escrow of the real property located at 13103 Chestnut St., Whittier, CA 90602 without explicit written prior consent and approval of Secured Creditor, and (3) the conditions specified in the Chapter 13 Trustee's Comments (dkt. 26). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Thomas Vallez

Represented By
Nicholas S Nassif

Movant(s):

Thomas Vallez

Represented By
Nicholas S Nassif

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CONT... Thomas Vallez

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:18-20694 Michael Herbert

Chapter 13

#8.00 Hrg re: Motion for Authority to Sell or Refinance
Real Property under LBR 3015-1 (Ch 13)

Docket 39

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised by this Court (dkt. 73).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michael Herbert

Represented By
Elena Steers

Movant(s):

Michael Herbert

Represented By
Elena Steers

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

2:18-11817 Tierus Eugene James

Chapter 13

#9.00 Hrg re: Objection to Claim Number 3 by
Claimant Deutsche Bank National Trust
Company, et al. c/o Nationstar Mortgage,
LLC. dba Mr. Cooper

Docket 31

Tentative Ruling:

Appearances required.

On the one hand, creditor Deutsche Bank N.A. appears to be correct in its limited opposition (dkt. 36) that the loan modification is "still pending" in the sense that this Court has not yet entered an order approving that modification. On the other hand, that creditor does not explain why it only sought this Court's approval on 1/9/19 (dkt. 34), when the loan modification was entered into on 11/13/18 (dkt. 31, Ex.B, at PDF p.54).

Meanwhile Debtor's counsel has not provided a cost/benefit analysis, including whether it was necessary to file this motion when it appears likely that a telephone call or letter reminding the creditor to amend its proof of claim might have sufficed. Why should counsel charge fees for a motion when these cheaper alternatives apparently would have sufficed, and when the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

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8:30 AM

CONT... Tierus Eugene James

Chapter 13

Normally this Court would continue this hearing for the parties to address these issues, but due to the impending effects of the (partial) government shutdown, this Court is proceeding with this hearing in an attempt to address all outstanding issues before "phase 2" of the shutdown of the judiciary.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tierus Eugene James

Represented By
Kevin T Simon

Movant(s):

Tierus Eugene James

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

2:18-21221 Leon Massoth

Chapter 13

#10.00 Hrg re: Motion Objecting to Claim No: 1-2 on the
Bankruptcy Court's Claims Register of the Department
of Treasury - Internal Revenue Service

Docket 16

***** VACATED *** REASON: Withdrawal of Objection Filed on 12/19/18
(Dkt. 22)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Leon Massoth

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

2:18-20818 Marcelino Torres

Chapter 13

#11.00 Cont'd hrg re: Motion to Avoid Lien with JNC, Inc., a California Corporation c/o Evan A. Clark, Esq., its Successors and/or Assigns
fr. 12/20/18

Docket 22

Tentative Ruling:

Tentative Ruling for 1/24/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address how they propose to resolve their disputes - *e.g.*, (i) with an evidentiary hearing, as indicated by JNC's supplemental opposition (dkt. 43); (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706, or (iv) through some other method.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/20/18:

Continue to 2/21/19 at 8:30 a.m. to address the following issues. Appearances are not required on 12/18/18.

Appraisal; date of valuation. The junior lienholder has provided an "exterior only" appraisal (dkt. 26), but needs additional time to obtain an appraisal based on an interior inspection and whatever analysis that appraiser and/or the junior lienholder deem appropriate regarding Debtor's estimate of repair costs. Debtor is directed to provide reasonable access for those purposes. The junior

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CONT...

Marcelino Torres

Chapter 13

lienholder is directed to file and serve the appraisal at least 14 days before the continued hearing. Note: Judge Bason's tentative ruling is to require valuations *at or near the petition date*. See *In re Gutierrez*, 503 B.R. 458 (Bankr. C.D. Cal. 2013).

At the continued hearing the parties should address how they propose to resolve their disputes - *e.g.*, (i) with an evidentiary hearing; (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through mediation, or (iv) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marcelino Torres

Represented By
Kevin T Simon

Movant(s):

Marcelino Torres

Represented By
Kevin T Simon
Kevin T Simon
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

2:13-25508 Luis Alfonso Duran and Alejandra Janeth Campos

Chapter 13

#12.00 Cont'd hrg re: Motion to Avoid Junior Lien on Principal Residence with Creditor: Delphi Financial Corporation fr. 4/5/18, 5/3/18, 08/02/18, 09/27/18, 11/29/18

Docket 79

Tentative Ruling:

Tentative Ruling for 1/24/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address any pre-trial issues. The Court is prepared to tentatively set the matter for an evidentiary hearing on March 27, 2019 at 9:00 a.m., with a deadline of 3/13/19 for both parties to file and serve declarations serving as direct testimony, subject to live cross-examination. The direct testimony must including declarations of each party's appraiser authenticating their own appraisal and criticizing the other party's appraisal.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/27/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address issues pertaining to the valuation of the property in question, the amount of the senior lien, and the impact of vacating confirmation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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CONT... **Luis Alfonso Duran and Alejandra Janeth Campos**

Chapter 13

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/2/18:

Continue to 9/27/18 at 8:30 a.m. as set forth below. Appearances are not required on 8/2/18.

This Court has reviewed Delphi's unilateral status report (dkt. 89). The tentative ruling is to continue this matter to the date and time stated at the start of this tentative ruling and to set a discovery cutoff deadline of 9/14/2018.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/3/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (1) the procedural and substantive aspects of the lienholder's arguments about granting it relief, including vacating the order confirming the plan, which are raised in their opposition (dkt. 83) to the debtor's motion to avoid the lien (dkt. 79), and (2) if this Court determines that it is appropriate to address the merits of the underlying dispute, how the parties propose to resolve their valuation issues - *e.g.*, (i) with an evidentiary hearing; (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), or (iii) through mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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8:30 AM

CONT... Luis Alfonso Duran and Alejandra Janeth Campos

Chapter 13

Party Information

Debtor(s):

Luis Alfonso Duran

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Joint Debtor(s):

Alejandra Janeth Campos

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Movant(s):

Luis Alfonso Duran

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Alejandra Janeth Campos

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

2:17-19762 Robert E Read

Chapter 13

#13.00 Cont'd hrg re: Motion by Debtor Objecting
to Claim # 9 of Internal Revenue Service
fr. 8/2/18, 11/29/18

Docket 44

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed on
12/18/18 (Dkt. 64)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert E Read

Represented By
Donna R Dishbak

Movant(s):

Robert E Read

Represented By
Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

2:17-23996 **Randall Allen Rush and Jervonia Monique Rush**

Chapter 13

#14.00 Cont'd hrg re: Motion for Turnover of Property
fr. 08/02/18, 09/27/18, 11/29/18

Docket 44

Tentative Ruling:

Tentative Ruling for 1/24/19:

Deny for the reasons stated in the supplemental opposition (dkt. 64).

Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/27/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether the accounting attached as Ex.B to the Opposition (dkt. 53) is compatible with the monthly statements attached to the Reply (dkt. 54, Ex.C), and the other issues raised by the parties, including standing and attorney fees.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

CONT... Randall Allen Rush and Jervonia Monique Rush

Chapter 13

Debtor(s):

Randall Allen Rush

Represented By
Kahlil J McAlpin

Joint Debtor(s):

Jervonia Monique Rush

Represented By
Kahlil J McAlpin

Movant(s):

Randall Allen Rush

Represented By
Kahlil J McAlpin
Kahlil J McAlpin

Jervonia Monique Rush

Represented By
Kahlil J McAlpin
Kahlil J McAlpin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

8:30 AM

2:18-13275 Hossein Daneshvar

Chapter 13

#15.00 Cont'd hrg re: Motion Objecting to Claim No. 5-1 on the Bakruptcy Court's Claims Register of Jerson Estrada; Request Claim to be Disallowed fr. 06/28/18, 08/02/18, 08/30/18, 10/25/18, 12/20/18

Docket 24

Tentative Ruling:

Tentative Ruling for 1/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 12/20/18, this Court continued the hearing based on Debtor's assertion that a settlement had been negotiated. There is no tentative ruling, but the parties should be prepared to apprise this Court of the status of the negotiated settlement in the non-bankruptcy action, *Jerson Estrada v. Airport General Auto Repair, Inc.* (Superior Court, County of L.A., BC643391).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/20/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to apprise this Court whether this claim objection should be continued or if it has been

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8:30 AM

CONT... Hossein Daneshvar

Chapter 13

effectively resolved by any judgment or other developments in the non-bankruptcy action, *Jerson Estrada v. Airport General Auto Repair, Inc.* (Superior Court, County of L.A., BC643391).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/25/18:

Continue to 12/20/18 at 8:30 a.m. because this matter is being resolved in the nonbankruptcy action in *Jerson Estrada v. Airport General Auto Repair, Inc.* (Superior Court, County of L.A., BC643391). See Order (dkt. 44) (granting relief from automatic stay for that action). Appearances are not required on 10/25/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/30/18:

Appearances required. There is no tentative ruling but the parties should be prepared to address the following issues.

This Court has reviewed the claim objection (dkt. 24), claimant's opposition (dkt. 35), and debtor's reply (dkt. 37). The claimant asserts (dkt. 35, p.4, n.1) that he "is also filing a motion from stay in order to have his claim adjudicated and liquidated in the State Court Litigation" and he claims that this bankruptcy case was filed "less than two months before the State Court Litigation's scheduled trial date." Dkt. 35, p.2:23-24. But, as of the preparation of this tentative ruling, no such motion for relief from the automatic stay has been

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CONT... Hossein Daneshvar
filed.

Chapter 13

The debtor asserts that this bankruptcy case was filed to protect the debtor from this litigation, but he does not cite authorities addressing whether claims litigation should be conducted in the Bankruptcy Court or in State Court. See, e.g., 28 U.S.C. 1334(c)(2) (mandatory abstention if non-core proceeding has been commenced, "and can be timely adjudicated," in a State forum of appropriate jurisdiction); 28 U.S.C. 1334(c)(1) (discretionary abstention); *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166-67 (9th Cir.1990).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/2/18:

Grant, with a caution that in future counsel for the debtor must include a cost/benefit analysis in connection with every claim objection. (In this instance that requirement is being excused because of the nature of the dispute at issue and because the proposed distributions (dkt. 29) appear to make the cost of this claim objection worth the attorney fees involved in prosecuting it; but in future this Court does not intend to do the analysis for the movant.) Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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8:30 AM

CONT... Hossein Daneshvar

Chapter 13

Debtor(s):

Hossein Daneshvar

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

2:18-17022 Humberto Espeleta

Chapter 13

#16.00 Cont'd hrg re: Debtor's Motion to Reinstate the Debtor's Automatic Stay Protection Nunc Pro Tunc Pursuant to 11 U.S.C. § 105(A), FRBP 9024 and Fed.R.Civ.P.60(B) fr. 12/20/18

Docket 51

Tentative Ruling:

Tentative Ruling for 1/24/19:

Appearances required to address (1) whether the proper creditors were given adequate notice and service, (2) whether the automatic stay, once terminated, can be retroactively reimposed, (3) whether the automatic stay would apply even if this case had never been dismissed, in view of 11 U.S.C. 362(b)(2)(D), and (4) whether relief is warranted on the facts presented.

(1) Background, and apparent lack of sufficient notice or service

The orders setting this hearing (dkt. 57, 60) directed Debtor to file and serve a declaration specifying, to the best of Debtor's knowledge, what acts were taken while the case was dismissed, as to which Debtor seeks retroactive protection by retroactive reimposition of the automatic stay. Debtor's declaration (dkt. 64, para.3) states that on or about 12/8/18 "both the County of San Diego [SD Child Support] and the County of Los Angeles [LA Child Support] referred my case for delinquent child support to the California Department of Motor Vehicles [DMV] and my license was thereafter suspended." (Emphasis added.) Debtor also states that he has "listed these two [sic] agencies as priority creditors and I seek to pay these delinquent child support payments through my chapter 13 plan." Dkt. 64, para.4.

Debtor's declaration of service (dkt. 65) appears to show telephonic notice but no service on SD Child Support (*id.*, para.7&11, and at PDF p. 6), and no notice or service at all on LA Child Support, DMV, or Debtor's former spouse to whom the child support presumably is owed. Nor does it appear that Debtor has served the other governmental officials who typically require service under Rule 7004(j)(2) (Fed. R. Bankr. P.).

The tentative ruling is to deny the requested retroactive reimposition of the

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CONT... Humberto Espeleta

Chapter 13

automatic stay due to lack of sufficient notice and service.

(2) Retroactive re-imposition of automatic stay might be appropriate

The Court of Appeals for the Ninth Circuit has stated that "no authority exists for "reinstating" an automatic stay that has been lifted." *In re Canter*, 299 F.3d 1150, 1155 n.1 (9th Cir. 2002). Relief might be available under Rule 60(b) (Fed. R. Civ. P., incorporated by Rule 9024, Fed. R. Bankr. P.), but any such relief must be applied only in exceptional circumstances. See *In re Gledhill*, 76 F.3d 1070, 1078-80 (10th Cir. 1996); *In re Camacho*, 361 B.R. 294, 299-300 (1st Cir. BAP 2007).

The tentative ruling is that loss of a driver's license is a sufficiently draconian penalty that it might constitute an exceptional circumstance warranting retroactive relief. Without a license, Debtor presumably will be greatly impaired in attempting to make payments to creditors, including child support arrears.

But for the following reasons that tentative ruling appears to be moot.

(3) The automatic stay does not appear to apply

Under 11 U.S.C. 362(b)(2)(D) the automatic stay does not apply to the "withholding, suspension, or restriction of a driver's license" This provision appears in the paragraph primarily addressing domestic support obligations, so it appears that Congress fully intended to leave to the States the suspension of drivers' licenses as a means of enforcing child support obligations.

The tentative ruling is that, for this reason, any retroactive vacating of dismissal will not retroactively impose the automatic stay in any way that would restore Debtor's driver's license. For this alternative reason, the tentative ruling is to deny the motion.

(4) Whether relief is warranted on the facts presented

If Debtor can overcome the foregoing obstacles to relief, Debtor will need to address whether relief is warranted on the facts presented. This Court would be inclined to grant relief, because the loss of a driver's license almost certainly will have serious negative consequences to Debtor and his ability to pay all creditors including child support arrears; but it appears that this Court lacks the power to grant such relief, and in any event it appears that notice and service have not been adequate so this Court cannot hear this matter.

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CONT...

Humberto Espeleta

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/20/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in this Court's order setting this hearing (dkt. 55).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Humberto Espeleta

Represented By
Lionel E Giron

Movant(s):

Humberto Espeleta

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

2:14-27290 Annmarie Salvatore

Chapter 13

#17.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 97

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Court in the order setting hearing (dkt 101).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Annmarie Salvatore

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

2:18-24844 Kenneth Sears Howard

Chapter 13

#18.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 17

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the feasibility issues raised in the opposition (dkt. 20). This Court received a telephone call to chambers indicating that a creditor had foreclosed on Debtor's property, allegedly in violation of the automatic stay, and the parties should be prepared to address that issue (to the extent they have knowledge of it).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kenneth Sears Howard

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

2:14-25039 Michael Dermont Hill and Regina Delorse Hill

Chapter 13

#19.00 Hrg re: Motion to vacate order on motion to vacate order of dismissal

Docket 136

Tentative Ruling:

Deny, for the reasons stated in Debtors' opposition (dkt. 140). As set forth in this Court's Order Rescheduling Hearing (dkt. 141), the motion is really seeking reconsideration, so the heightened standards for reconsideration apply. In any event, the tentative ruling is that the same result would be reached even if this were the initial hearing (not a reconsideration hearing) on Debtor's Motion to Vacate Dismissal (dkt. 119). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Michael Dermont Hill

Represented By
Daniel King
Thomas B Ure

Joint Debtor(s):

Regina Delorse Hill

Represented By
Daniel King

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

8:30 AM

**CONT... Michael Dermont Hill and Regina Delorse Hill
Thomas B Ure**

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

9:30 AM
2:00-00000

Chapter

#1.00 **PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, January 24, 2019

Hearing Room 1545

11:00 AM

2:18-23799 Jonathan Ahron

Chapter 13

#2.00 Hrg re: Motion to Withdraw as Attorney of Record

Docket 54

Tentative Ruling:

Grant, subject to any timely opposition (due 1/22/19), pursuant to California Rules of Professional Conduct, Rule 1.6 (former rule 3-700). Because this tentative ruling is being prepared before the deadline for opposition, appearances are required. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jonathan Ahron

Represented By
Scott Kosner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:00-00000

Chapter

#0.00 ***NOTE: If the (partial) government shutdown recurs, many matters will be continued. See the tentative ruling for your individual matter.***

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-13798 Juan Carlos Mojica and Miriam Loza Barona

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

ANGELA SCOTT, TRUSTEE OF THE
JDS CORP PURCHASE MONEY PLAN
VS
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... **Juan Carlos Mojica and Miriam Loza Barona** **Chapter 13**

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Juan Carlos Mojica

Represented By
Claudia C Osuna

Joint Debtor(s):

Miriam Loza Barona

Represented By
Claudia C Osuna

Movant(s):

Angela Scott, Trustee of the JDS

Represented By
Benjamin R Levinson ESQ

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-14258 Joan Leigh Revello

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 35

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Joan Leigh Revello

Chapter 13

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joan Leigh Revello

Represented By
Brad Weil

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-14712 Miriam Louise Hodges

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

NEW PENN FINANCIAL, LLC
vs
DEBTOR

Docket 23

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Miriam Louise Hodges

Chapter 13

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Miriam Louise Hodges

Represented By
Nicholas M Wajda

Movant(s):

New Penn Financial, LLC., et al

Represented By
Asya Landa

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-15055 Karla Enid Ramirez

Chapter 11

#4.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 109

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Order Denying Debtor's Motion for Order Imposing or Continuing the Automatic Stay (dkt. 72, the "Stay Denial Order").

The automatic stay does not apply

As movant points out (dkt. 109, at PDF p.14, para. 15 & Ex.10) this Court has already issued its Stay Denial Order (dkt. 72). Accordingly, there is no automatic stay in this case.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Karla Enid Ramirez

Chapter 11

record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because the unauthorized grant deeds were several years ago and appear to be more consistent with (i) a good faith attempt to allocate responsibilities and benefits between Debtor and her father than (ii) any scheme to hinder, delay, or defraud creditors. See dkt. 109, at PDF p.14, para. 10 & 11. In addition, Debtor's explanations of the multiple bankruptcy cases (dkt. 113) are persuasive as to whether "*in rem*" relief should be granted.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Karla Enid Ramirez

Represented By
Lionel E Giron
Kevin Tang

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Karla Enid Ramirez

Chapter 11

Movant(s):

U.S. Bank National Association, as

Represented By
Todd S Garan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-18131 Alexander Dela Cruz Del Rosario and Marie Chita-Linda

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 45

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... **Alexander Dela Cruz Del Rosario and Marie Chita-Linda** Chapter 13
consent, then you may waive your right to be heard on matters that are
appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alexander Dela Cruz Del Rosario Represented By
Sevan Gorginian

Joint Debtor(s):

Marie Chita-Linda Vergara Del Represented By
Sevan Gorginian

Movant(s):

JPMORGAN CHASE BANK, Represented By
Kelsey X Luu
Merdaud Jafarnia
Kennessa C Hartin

Trustee(s):

Kathy A Dockery (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-22067 Nina Abram

Chapter 13

#6.00 **[CASE DISMISSED ON 1/2/19]**

Hrg re: Motion for relief from stay [RP]

HSBC BANK USA NATIONAL ASSOC
vs
DEBTOR

Docket 22

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT...

Nina Abram

Chapter 13

case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g) (2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Nina Abram

Chapter 13

dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Nina Abram

Pro Se

Movant(s):

HSBC Bank USA National

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:17-15480 Alberto Avila and Elizabeth Avila

Chapter 13

#7.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORP
vs
DEBTOR

Docket 40

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Alberto Avila and Elizabeth Avila

Chapter 13

Party Information

Debtor(s):

Alberto Avila

Represented By
Juanita V Miller

Joint Debtor(s):

Elizabeth Avila

Represented By
Juanita V Miller

Movant(s):

Toyota Motor Credit Corporation,

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-22377 Stephen W. Beal

Chapter 13

#8.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORP
vs
DEBTOR

Docket 15

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Stephen W. Beal

Chapter 13

Party Information

Debtor(s):

Stephen W. Beal

Represented By
Steven B Lever

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-23319 Lisa Flowers

Chapter 7

#9.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORP
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Lisa Flowers

Chapter 7

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lisa Flowers

Pro Se

Movant(s):

Toyota Motor Credit Corporation,

Represented By
Austin P Nagel

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-24853 Ray A. Brown, Jr.

Chapter 13

#10.00 Hrg re: Motion for relief from stay [UD]

BRUCE KIM
vs
DEBTOR

Docket 14

Tentative Ruling:

Grant in part - insofar as requiring a "stay current" adequate protection order ("APO") - and otherwise deny the motion, based on Debtor's opposition papers (dkt. 18, 19), Debtor's prospects for an effective reorganization (see draft Plan, dkt. 10), and the lack of sufficient showing of cause for "in rem" relief.

Appearances required to address the terms of the APO.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ray A. Brown Jr.

Represented By
Joseph A Weber

Movant(s):

Bruce Kim

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Ray A. Brown, Jr.

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-24131 Nikogos Kosoyan

Chapter 13

#11.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 20

Tentative Ruling:

Deny as untimely (see below). Appearances required to address whether the case should be dismissed, with or without prejudice to filing a new bankruptcy case and proceeding as set forth in Debtor's reply (dkt. 32) to the opposition papers (dkt. 23). See Judge Bason's Procedures, posted at www.cacb.uscourts.gov (search for "362(c)(3)"). See also *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017).

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling.

Untimeliness: The motion was not timely set for hearing in accordance with 11 U.S.C. 362(c)(3)(B) (providing that "on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30 day period [after the petition date, *i.e.*, 12/3/18 + 30 days]." (emphasis added)).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Nikogos Kosoyan

Chapter 13

Debtor(s):

Nikogos Kosoyan

Represented By
Richard T Baum

Movant(s):

Nikogos Kosoyan

Represented By
Richard T Baum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:19-10248 Renell Robinson

Chapter 13

#12.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

There is no tentative ruling but the parties should be prepared to address the issues raised in the opposition (dkt. 15) and any additional opposition at the hearing. Appearances required.

If this Court is persuaded to grant relief then, as usual, after the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... **Renell Robinson**

Chapter 13

dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Renell Robinson

Represented By
Kevin Tang

Movant(s):

Renell Robinson

Represented By
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-25035 Marie Theresa Walton

Chapter 13

#13.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 14

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Marie Theresa Walton

Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marie Theresa Walton

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:14-13024 Jose Francisco Santos

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/4/18, 11/6/18

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 49

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Jose Francisco Santos

Represented By
Sanaz S Bereliani

Movant(s):

Deutsche Bank National Trust

Represented By
Cassandra J Richey
Dane W Exnowski
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:16-21902 Jose Alberto Ramos and Vanessa Ramos

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/4/18, 10/16/18, 12/18/18

OCWEN LOAN SERVICING, LLC
vs
DEBTOR

Docket 60

Tentative Ruling:

Tentative Ruling for 1/29/19 (same as for 12/18/18, 10/16/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... **Jose Alberto Ramos and Vanessa Ramos** **Chapter 13**

on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Alberto Ramos

Represented By
Claudia C Osuna

Joint Debtor(s):

Vanessa Ramos

Represented By
Claudia C Osuna

Movant(s):

Ocwen Loan Servicing, LLC

Represented By
Seth Greenhill
Keith Labell
Theron S Covey
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-10927 Patricia Ana Chavez

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/4/18

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 29

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Patricia Ana Chavez

Represented By
William G Cort

Movant(s):

The Bank of New York Mellon f/k/a

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-16492 Billy Lawson, Jr

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/6/18, 12/4/18

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 1/29/19 (same as for 12/6/18, 11/6/18)

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Billy Lawson Jr

Represented By
Brad Weil

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Kelsey X Luu

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Billy Lawson, Jr

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-18060 Magdalena Avila

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 11/27/18, 12/4/18, 01/08/19

WHEELS FINANCIAL GROUP, LLC
vs
DEBTOR

Docket 24

Tentative Ruling:

Tentative Ruling for 1/29/19 (same as for 1/8/19 12/4/18, 11/27/18)

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 26).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

WHEELS FINANCIAL GROUP,

Represented By
Sheryl D Noel

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Magdalena Avila

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:15-29161 Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/07/18, 10/2/18, 12/4/18, 12/18/18

DEUTSCHE BANK TRUST COMPANY AMERICAS
vs
DEBTOR (S)

Docket 40

Tentative Ruling:

Tentative Ruling for 1/16/19:

Appearances required. At the hearing on 12/18/18 this Court was persuaded to continue this matter for a possible finalization of a loan modification. There is no tentative ruling, but the parties should be prepared to address the status of the loan modification.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Reason: At the 12/4/18 hearing, this Court set a deadline of 12/11/18 for Debtor to provide evidence in support of any further continuance and adequate protection, including evidence of the status of the attempted loan modification. Debtor did not file any evience by the deadline.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

In view of the alleged equity in the property this Court grants the following limited relief to Debtor:

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3).

No foreclosure sale of the property may take place prior to 2/28/19.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/4/18 (same as for 10/2/18, and 8/7/18 except telephonic appearances encouraged):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 42).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Victor Hugo Anaya

Represented By
Erika Luna

Joint Debtor(s):

Nora Leticia Anaya

Represented By
Erika Luna

Movant(s):

Deutsche Bank Trust Company

Represented By
Sheereen Middleton
Keith Labell
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:18-15055 Karla Enid Ramirez

Chapter 11

#20.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 1/15/19

FORD MOTOR CREDIT COMPANY, LLC
vs
DEBTOR

Docket 96

Tentative Ruling:

Tentative Ruling for 1/29/19 (same as for 1/15/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 110).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Karla Enid Ramirez

Represented By
Lionel E Giron
Kevin Tang

Movant(s):

Ford Motor Credit Company LLC

Represented By
Randall P Mroczynski

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

2:16-25361 Sandy G. Villanueva and Antonio Figueroa

Chapter 13

#21.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR
1/15/19

Docket 57

Tentative Ruling:

Tentative Ruling for 1/29/19:

Appearances required. At the hearing on 1/15/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

10:00 AM

CONT... **Sandy G. Villanueva and Antonio Figueroa** **Chapter 13**

in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sandy G. Villanueva

Represented By
Michael E Plotkin

Joint Debtor(s):

Antonio Figueroa

Represented By
Michael E Plotkin

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, January 29, 2019

Hearing Room 1545

11:00 AM

2:00-00000

Chapter

#0.00 ***NOTE: If to the (partial) government shutdown recurs, many matters will be continued. See the tentative ruling for your individual matter.***

Docket 0

Tentative Ruling:

NOTE: Due to the (partial) government shutdown, many matters will be continued. See the tentative ruling for your individual matter.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

11:00 AM

2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

- #1.00** Cont'd Status Conference re: Complaint for Non-Dischargeability of Debtor Pursuant to 11 U.S.C. Section 523(a)(4) and 11 U.S.C. Section 523(a)(6) fr. 7/19/16, 12/13/16, 05/02/17, 09/12/17, 2/27/18, 6/12/18, 10/9/18, 12/18/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/29/19:

Continue to 2/26/19 per the Plaintiff's filed status report (dkt. 28). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

The plaintiff mis-filed the status report in the main case (main case dkt. 42) instead of this adversary proceeding. The plaintiff also failed to lodge a proposed order continuing this matter (using this Court's "LOU" program), and instead attached it to the status report.

Notwithstanding these errors, the tentative ruling is to continue this Status Conference to 12/18/18 at 11:00 a.m. Plaintiff is directed to file the next status report in this adversary proceeding (not in the main case) no later than 12/4/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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Chapter 7

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This matter has been continued multiple times (see tentative rulings reproduced below, and see Order, adv. dkt. 18). At the 2/27/18 hearing, this court further continued the hearing to today's date and directed plaintiff to give written notice. No such notice appears to have been filed on the docket. Why not?

There is no tentative ruling, but the parties should be prepared to address the issues described in the tentative ruling for 2/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Appearances required. At the hearing on 5/2/17 this court was persuaded to continue this matter to 9/12/17. This matter was further continued to today's date (see Order, adv. dkt. 18).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/2/17:

Appearances required. At the hearing on 12/13/16 this court was persuaded to continue this matter to today's date, with a deadline of 4/11/17 to complete mediation (see adv. dkt. 13 (mediation order)).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/13/16:

Continue to 2/7/17 at 11:00 a.m. at which time this court anticipates addressing, in view of the State Court's determinations as to pending matters, what trial date and other deadlines to set. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/19/16:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

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CONT... Armen Janian

Chapter 7

(1) Failure to file a status report. Why did the plaintiff not file a status report updating the Court as to the status of the pending state court litigation (adv. dkt. 4)? Should this Court issue an order to show cause based on plaintiff's disregard of this Court's order?

(2) Status of the state court litigation. What is the status of the state court litigation?

(3) Continued status conference. Assuming that the state court litigation is still pending, this Court intends to set a continued status conference for 11/8/16 at 11:00 a.m. The plaintiff must file a brief status report detailing the current status of the state court litigation by 10/25/16.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
Leon Nazaretian

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian

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CONT... Armen Janian

Chapter 7

Valerie Fykes

Represented By
Michael D Anderson

Forrest Fykes JR

Represented By
Michael D Anderson

Melissa Fykes

Represented By
Michael D Anderson

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#2.00 Cont'd Status Conference re: Complaint to Determine
Nondischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18,
08/14/18, 10/9/18, 11/6/18, 12/11/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

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CONT... David MacMillan

Chapter 7

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#3.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's schedulings order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT...

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Chapter 7

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. docket number(s) 23).

(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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CONT...

David MacMillan

Chapter 7

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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CONT... David MacMillan

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consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

Reasons: At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*,

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Chapter 7

495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... David MacMillan

Chapter 7

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
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Tuesday, January 29, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01174 Stardust Vacation Club and Americana Vacation Club v. MacMillan

#4.00 Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt
fr. 5/2/17, 06/06/17, 8/22/17, 11/14/17, 01/30/18, 5/1/18, 6/26/18, 08/14/18, 9/18/18, 11/6/18, 12/11/18

Docket 1

***** VACATED *** REASON: Adversary proceeding dismissed per parties' stipulation (adv. dkt. 45) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Stardust Vacation Club and

Represented By
Bruce Grego

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
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11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01485 Gonzalez v. Macmillan et al

#5.00 Cont'd Status Conference re: Complaint for Fraudulent Transfer and Declaratory Relief fr. 12/5/17, 02/13/18, 3/20/18, 4/17/18, 07/17/18, 08/14/18, 10/16/18, 11/27/18, 12/11/18

Docket 1

*** VACATED *** REASON: Cont. to 3/5/19 at 11:00 a.m. per stip. (adv. dkt. 61) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:00-00000

Chapter

#0.00 ***NOTE: If the (partial) government shutdown recurs, many matters will be continued. See the tentative ruling for your individual matter.***

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Tuesday, January 29, 2019

Hearing Room 1545

1:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#1.00 Hrg re: Motion to Appoint Trustee For the Appointment of a Chapter 11 Trustee or in the Alternative to Convert the Case to Chapter 7

Docket 399

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #2 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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Hearing Room 1545

1:00 PM

2:18-16114 Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

#2.00 Hrg re: Motion for authority to
refinance real property

Docket 68

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 3, 1/29/19
at 1:00 p.m.)

Party Information

Debtor(s):

Ricardo Edmundo Lengua

Represented By
John A Harbin

Joint Debtor(s):

Pamela Lorraine Lengua

Represented By
John A Harbin

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, January 29, 2019

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1:00 PM

2:18-16114 Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/26/18, 08/14/18, 10/16/18, 11/27/18, 12/11/18

Docket 6

Tentative Ruling:

Tentative Ruling for 1/29/18:

Appearances are not required.

(1) Current issues

(a) Motion to Refinance (dkt. 68). Grant, subject to the conditions in Citibank's Non-Opposition (dkt. 74) and subject to any proposed payment of debtors' attorney fees being held in a trust account with no distributions absent further order of this Court.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 2/26/19 at 1:00 p.m. Status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

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CONT... **Ricardo Edmundo Lengua and Pamela Lorraine Lengua** Chapter 11

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to Use Cash Collateral (dkt. 57). Withdrawn (dkt. 69).

(b) Proposed refinance. The refinance motion (dkt. 68) was not filed until 12/3/18 - almost half a year after this case was filed: why was it not filed sooner? The motion fails to include the mandatory notice of hearing, objection deadlines, etc. The motion contemplates that the sale will close in January of 2019, but it lists a hearing date of 1/29/19 at 1:00 p.m., which would give almost no leeway to close in January after the hearing: why was the hearing self-calendared so far out? The motion admits that the payoff amounts will increase by then: will the refinance provide sufficient funds to pay all liens in full? The escrow statement contemplates a payment of \$30,000 to Debtors' counsel: any such payment must be held in a trust account unless and until approved by this Court. The tentative ruling is to continue this status conference for one week to see if these issues have been corrected, with a warning to counsel for Debtors that there likely will be consequences to his continued disregard for the rules and procedures of this Court, including a reduction in fees.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 12/18/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to Use Cash Collateral. Grant on an interim basis, as set forth in the tentative ruling in calendar no. 11 (11/27/18 at 1:00 p.m.).

(b) Proposed refinance. At the status conference on 10/16/18, Debtors' counsel anticipated filing a motion for a refinance very shortly thereafter, and the tentative ruling for that date set forth various items that Debtor would need to address. No such motion is on the docket. The refinance motion was supposed to supersede the proposed plan and disclosure statement, and as noted in the tentative ruling for 10/16/18 those documents are incomplete and confused. See *also* dkt. 65 (objection of Ditech Fin. LLC). Are debtors and their counsel properly prosecuting this case?

The tentative ruling is to continue this Status Conference with a warning to Debtors and their counsel that if they do not prosecute this case then it likely will be dismissed with a bar against being a debtor again, or converted to chapter 7, or this Court may impose other remedies.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 1/15/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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CONT... **Ricardo Edmundo Lengua and Pamela Lorraine Lengua**
appropriate for disposition at this hearing.

Chapter 11

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed debtor's status report (dkt. 50) and other relevant pleadings.

(a) Plan (dkt. 47) and Disclosure Statement (dkt. 48). These documents are incomplete and confused. But the tentative ruling is that there is no need to proceed with these documents if Debtors are going to proceed with a proper motion to refinance and pay all creditors in full (as stated in their status report).

(b) Proposed refinance. The claims register lists total claims of \$419,929.77 as of the petition date (of which \$366,270.15 are listed as secured and \$150.29 as priority). The proposed refinance would generate loan proceeds of \$463,000. This appears to be sufficient to pay all claims, probably including postpetition interest, although perhaps not including 100% of asserted administrative expenses. Counsel for the debtor should be prepared to address (i) the form of motion he intends to file, (ii) whether that motion will seek authority to pay unsecured claims, and (iii) whether unsecured claims will be paid out of escrow or by some other means and, if the latter, who will hold the net proceeds after payment of secured claims.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are are

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CONT... **Ricardo Edmundo Lengua and Pamela Lorraine Lengua** **Chapter 11**

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Continue to the date and time set forth below. Appearances are not required on 8/14/18.

(1) Current issues. This Court has reviewed debtor's status report (dkt. 38) and other relevant pleadings.

(a) This Court does not have any issues to raise *sua sponte*.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: file by 9/25/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 10/16/18 at 1:00 p.m. *Brief* status report due 10/2/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Tentative Ruling for 6/26/18:

Appearances required by counsel for the debtor and by the debtor themselves.

(1) Current issues. This Court has reviewed the debtors' status report (dkt. 14), and the other filed documents and records in this case.

(a) May MOR (dkt. 18). The MOR purports to cover the period from 5/28/18 (the petition date) to 5/31/18, but is essentially blank, including the section for disclosure of existing insurance coverage (dkt. 18, pdf p. 5). Debtors should be prepared to address (i) whether they have insurance coverage on their residential real property (and any other asset requiring insurance); and, if they do (ii) whether they read the MOR and understood it prior to signing.

(b) Case Status Report (dkt. 14).

(i) Budget Motion. The status report says that a budget motion is not required by Judge Bason's procedures (dkt. 14, pdf p. 3), but that is not correct. See Judge Bason's Procedures, Section VII.F ("Judge Bason requires the use of local forms F 2081-2.2.MOTION.BUDGET and F 2081-2.2.ORDER.BUDGET"). Did counsel actually review the posted procedures? The tentative ruling is to set a deadline of 6/28/18 to file and serve a budget motion.

(ii) Consumers' confidential information. The status report states that the debtors do not have possession, custody, or control of consumers' confidential information (dkt. 14, pdf p. 10), but this Court questions whether that is accurate. What about customer lists from Hey Baby Sales, Inc.? Do the debtors claim any rights to those lists? (e.g. if the case were converted to a chapter 7 case, a sale of the debtors' interest in the company took place, and the buyer wanted the customer lists, would the debtors agree they could not retain or use the lists because the lists are owned by the company?).

The debtors should be prepared to address what steps they will take to protect confidential consumer information, and whether a consumer privacy ombudsman is required (11 U.S.C. 332).

(2) Deadlines/dates. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/25/18 using the forms required

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by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/14/18 at 1:00 p.m., *brief* status report due 7/31/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricardo Edmundo Lengua

Represented By
John A Harbin

Joint Debtor(s):

Pamela Lorraine Lengua

Represented By
John A Harbin

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#4.00 Cont'd status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18

Docket 26

Tentative Ruling:

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m. Appearances are not required on 1/29/19.

(1) Current Issues

(a) No current issues to address.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/26/19 at 1:00 p.m., Status Report due
2/19/19.

*Warning: special procedures apply (see order setting initial status
conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Appearances required

(1) Current Issues

(a) Budget Motion (dkt. 11)

Grant on a final basis.

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CONT...

Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

(b) Amended Cash Collateral Motion (dkt. 50)

Grant on a final basis. Per Debtors' status report (dkt. 49, p.3), the proposed order must include language that it shall not be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23.

(c) Motion to Employ Counsel (dkt. 18)

Grant on a final basis, based on the (late-filed) declarations of Julius and John Adeoye (dkt. 57, 58). See Interim Order (dkt. 39) & Egbase Decl. (dkt. 47).

(d) Proposed orders

Debtors are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/29/19 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required by counsel for the debtor and by Debtors themselves.

(1) Current issues

(a) Status report (dkt. 43, 45)

Debtors have not used the Local Form, which is mandatory in this case (see Judge Bason's posted procedures, available at www.cacb.uscourts.gov). The tentative ruling is to set a deadline of 11/13/18 to file the form and serve it on the United States Trustee.

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Chapter 11

(b) Motion to Employ Debtors' Counsel (Dkt. 18)

Debtors have not adequately addressed the issues in this Court's interim order (dkt. 39). Although proposed counsel declares (dkt. 47) that he has "learned" (from unspecified hearsay) that Debtors' relatives have funded the \$15,000 retainer as a gift, there is no declaration from the two alleged donors confirming this, and confirming all of their "connections" with all parties in interest and their attorneys and accountants (see dkt. 39, section 6.(a)), and their informed consent to potential or actual conflicts (*id.*, sec. 6.(c)), and Debtors' informed consent (*id.*, sec. 6.(d)). The tentative ruling is to continue this matter to the same time as the continued status conference (see below) and set a deadline of 11/13/18 to file appropriate declarations and serve them on the United States Trustee.

(c) MOR1 (Sept., 2018, dkt. 36)

Debtors report that they spent \$1,350.43 in cash, with no breakdown and just a vague description about "personal expenses," "charitable contributions," etc. The tentative ruling is that any proposed order authorizing the proposed budget must include a prohibition on Debtors spending more than \$50 cash on any one item or \$250 cash in the aggregate per month without attaching photocopies of receipts.

Several insurance policies have expired or are about to (see dkt. 36, at PDF p.16). What are Debtors doing about that?

(d) Motion to Use Cash Collateral (dkt 20)

First, Debtors failed to lodge a proposed order authorizing the use of cash collateral on the terms set forth in the adopted Tentative Ruling for 10/16/18 (see calendar no. 20, 11/6/18 at 1:00 p.m., which includes a copy of that earlier tentative ruling). The tentative ruling is to set a deadline of 11/13/18 to lodge that proposed order, with a copy of that tentative ruling attached.

Second, the original motion appears to have been superseded by an amended motion, which has not been separately filed and served but instead is attached as an exhibit to a supplemental declaration. See dkt. 29, Ex.B. The tentative ruling is to set a deadline of 11/13/18 to file and serve that motion, which will be heard at the same date and time as the continued status conference (see below).

Third, the tentative ruling is that no order granting Debtors' motions regarding cash collateral shall be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23. Debtors are

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CONT... **Finnian Osakpamwan Ebuehi and Elizabeth Olohirere** **Chapter 11**

directed to make this clear in their proposed orders.

(b) Motion for Order Approving a Budget (Dkt. 11)

Grant on an interim basis, with a continued hearing at the same time as the continued status conference (see below). The tentative ruling is that Debtors' (late-filed) declaration (dkt. 29 & Ex.A) has adequately addressed this Court's concerns about charitable donations.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/18/18 at 1:00 p.m., *brief* status report due 12/11/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-15055 Karla Enid Ramirez

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 5/29/18, 6/12/18, 7/10/18, 08/14/18, 9/18/18,
11/6/18, 12/11/18, 12/18/18

Docket 7

Tentative Ruling:

Tentative Ruling for 1/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The parties should be prepared to address the future of this case in view of the disposition of the stay-related matters on the 10:00 a.m. calendar.

(2) Deadlines/dates. This case was filed on 5/1/18.

(a) Bar date: 8/7/18 (timely served, dkt. 34, 40).

(b) Plan/Disclosure Statement: TBD

(c) Continued status conference: 2/26/19 at 1:00 p.m., with no written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Appearances required.

(1) Current issues

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Karla Enid Ramirez

Chapter 11

(a) Amended Schedule A/B (dkt. 89)

Has the ownership of the subject property been finally and conclusively established, as between Debtor, her father (also a debtor in bankruptcy), and any other persons?

(b) Employment of counsel

Please see the tentative ruling for the Sergio Ramirez case (calendar no. 2, 12/18/18 at 1:00 p.m.).

(2) Deadlines/dates. This case was filed on 5/1/18.

(a) Bar date: 8/7/18 (timely served, dkt. 34, 40).

(b) Plan/Disclosure Statement: TBD

(c) Continued status conference: 1/29/19 at 1:00 p.m., with no written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Mold issues etc. At the last hearing, this Court was informed of Debtor's efforts to address the mold issue. Has that issue been resolved?

(b) Motion for joint administration (dkt. 82). Grant, except that, to avoid possible administrative confusion, the new caption (dkt. 82, Ex.1) should list Sergio Ramirez' case number as "2:18-bk-21263-NB" (emphasis added) rather than "2:18-bk-21263-ER."

Debtors Karla and Sergio Ramirez are directed to lodge a proposed order in each of their separate cases authorizing joint administration. Thereafter, the

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Karla Enid Ramirez

Chapter 11

orders will provide that all subsequent documents must be filed in the lead case of Karla Ramirez. The proposed orders should provide that copies of the orders must be served on all parties in interest in both cases.

(c) Order re Sergio Ramirez. After this hearing *this Court will prepare an order* substantially in the form of dkt.6 (in the Karla Ramirez case) directed to Sergio Ramirez (*i.e.*, directing him to file a status report, directing him to appear in person at a future status conference, notifying all parties in interest that this Court may take various actions at any status conference, etc.).

(2) Deadlines/dates. This case was filed on 5/1/18.

(a) Bar date: 8/7/18 (timely served, dkt. 34, 40).

(b) Plan/Disclosure Statement: TBD

(c) Continued status conference: 12/11/18 at 1:00 p.m. Brief status report due 12/4/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

At the hearing on 8/14/18 this Court was persuaded not to convert this case, and instead to continue this hearing, in view of the debtor's apparent agreements with certain key creditors. This Court has reviewed the debtor's status report (dkt. 77).

(1) Current issues.

(a) Mold issues etc. Has the debtor addressed the mold and any other health and safety issues?

(b) Plan (dkt. 76) and Disclosure Statement (dkt. 75). The debtor treats tax claims from the IRS and the FTB as general unsecured claims (dkt. 75, Ex.F). The latter is listed as secured on the claims register. In addition, the claims register reflects Claim no. 4-1 by the LA County Treasurer for \$10,433.84

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CONT... Karla Enid Ramirez

Chapter 11

in alleged real estate taxes. How does the debtor propose to treat these claims?

(2) Deadlines/dates. This case was filed on 5/1/18.

(a) Bar date: 8/7/18 (timely served, dkt. 34, 40).

(b) Plan/Disclosure Statement: TBD

(c) Continued status conference: 11/6/18 at 1:00 p.m. Brief status report due 10/30/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

The tentative ruling is to convert this bankruptcy case to chapter 7. Appearances are not required. After the hearing this Court will prepare the conversion order.

(1) Current issues.

(a) Background. The debtor's status report notes (dkt. 62, p.2:9-12) that the debtor fell behind in mortgage payments and faced a scheduled increase in monthly payments from \$2,500 to \$7,800. That is an extremely unfortunate circumstance, but at this point it appears that there is no way to retain the property, and attempting to do so would simply mean that the debtor and her parents would be "throwing good money after bad." The best alternative may be for the debtor to obtain her chapter 7 discharge and the "fresh start" that is one of the main purposes of the bankruptcy system.

This Court recognizes that the debtor has attempted to save the property by moving out and renting it, as well as by obtaining contributions from her parents. Unfortunately, even if the debt is bifurcated as the debtor seeks to do, the property does not appear to be able to generate positive cash flow after payments on the mortgage. See tentative ruling for calendar no. 4 (denying motion to continue automatic stay). In addition, the property appears to have substantial deferred maintenance and other problems. Despite the efforts of the

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debtor and her counsel, it does not appear possible to satisfy the requirements of the Bankruptcy Code to keep the property.

(b) Denial of motion to continue automatic stay. As noted above, this Court's tentative ruling is to deny the debtor's motion to continue the automatic stay (see tentative ruling for calendar no. 4).

(c) Budget motion (dkt. 17, 41, 46, 50, 56). This Court granted the debtor's budget on an interim basis (dkt. 46) and orally on a final basis at the hearing on 6/12/18, but no proposed final order was lodged. In addition, since that time the debtor has filed amended bankruptcy Schedules I&J (dkt. 56) which appear to amend the proposed budget. In addition, as set forth in the tentative ruling denying the debtor's motion to continue the automatic stay, it appears that even the latest proposed budget would need to be different, to account for greater adequate protection payments in view of increased interest rates and in view of the urgent need to stop the mold and water intrusion issues at the property from becoming worse (see tentative ruling for calendar no. 4). For all of these reasons, the tentative ruling is that, notwithstanding this Court's prior oral ruling, the budget motion cannot be approved on a final basis; but that issue appears to be moot because of the tentative ruling to convert this case to chapter 7.

(2) Deadlines/dates. This case was filed on 5/1/18.

(a) Bar date: 8/7/18 (timely served, dkt. 34, 40).

(b) Plan/Disclosure Statement: N/A.

(c) Continued status conference: N/A.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18:

Continue to 8/14/18 at 1:00 p.m. Appearances are not required on 7/10/18.

(1) Current issues.

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(a) Budget motion (dkt. 17, 41, 46, 50, 56). This Court approved the debtor's budget on an interim basis (dkt. 46) and orally on a final basis at the hearing on 6/12/18, but no proposed final order was lodged, and since that time the debtor has filed amended bankruptcy Schedules I&J (dkt. 56). The tentative ruling is to deem the budget motion to be amended by those latest amended Schedules I&J and approve the budget as so amended on a final basis.

Proposed order: The debtors are directed to lodge a proposed order granting the motion via LOU, within 7 days after the hearing date, and a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Other issues. This Court has reviewed the debtor's filed Status Report (dkt. 54). This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 5/1/18.

(a) Bar date: 8/7/18 (timely served, dkt. 34, 40).

(b) Plan/Disclosure Statement*: file by 8/29/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: Continue to the date set forth at the start of this tentative ruling. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov,

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"Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion (dkt. 17, 29, 41). Grant the budget motion on a final basis (i) as deemed amended by the latest bankruptcy Schedules I and J (dkt. 41) and (ii) subject to a requirement that, no later than 6/19/18, the debtor must file a declaration showing how it is reasonable to estimate self employment taxes of only \$100 per month (see dkt. 41, Sch.J, line 16) or, alternatively, file a declaration establishing a higher dollar amount and lodge a proposed order amending the approved budget accordingly.

Proposed order: The debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and include a provision that the budget is deemed amended by dkt. 41. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 5/1/18.

(a) Bar date: 8/7/18 (timely served, dkt. 34, 40).

(b) Plan/Disclosure Statement*: file by 8/29/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 7/10/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/29/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

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(1) Current issues.

(a) Amended Schedule I (dkt. 26). Bankruptcy Schedule I, paragraph 8a, requires a separate statement for any rental property showing gross receipts, ordinary and necessary expenses, and net income. The debtor has not complied. Why not?

(b) Budget motion (dkt. 17, 29). Notwithstanding the foregoing, this Court has reviewed the cash collateral motion (dkt. 28), which appears to set forth the gross receipts, expenses, and net income of the subject property. Based on the presumption that this is included in the budget for which the debtor seeks approval, the tentative ruling is to grant the budget motion as amended (dkt. 29), on an interim basis, subject to a final hearing at the same date and time as the continued status conference set forth below. By no later than 6/8/18, the debtor must (i) correct the above-referenced omission from bankruptcy Schedule I and the budget motion, (ii) provide notice of the final hearing on this motion via U.S. Mail to all parties in interest, and (iii) file a proof of service.

Proposed order: The debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 5/1/18.

(a) Bar date: 8/7/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/29/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/12/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Karla Enid Ramirez

Represented By
Lionel E Giron
Kevin Tang

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2:18-21263 Sergio Alfredo Ramirez

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#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 12/4/18, 12/18/18

Docket 25

Tentative Ruling:

Tentative Ruling for 1/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The parties should be prepared to address the retention of new counsel (see Status Report, dkt. 112, joint admin. case no. 2:18-bk-15055-NB) and the future of this case in view of the disposition of the stay-related matters on the 10:00 a.m. calendar.

(2) Deadlines/dates. This case was filed on 9/26/18.

(a) Bar date: 2/7/19 (timely served, dkt. 46).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/26/19 at 1:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 12/18/18:

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Appearances required.

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(1) Current issues.

(a) Motion to employ (dkt. 37)

(i) Retainer

Proposed counsel explains that Debtor's sister, Ms. Corina Ramirez, provided a pre-petition retainer in the amount of \$5,000 (dkt. 37, at PDF 6). A third party who funds a retainer for the debtor (the "Funder") might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns.

While Ms. Ramirez has provided this Court with a delcaration (dkt. 37, at PDF 9) that addresses some of the Court's concerns, proposed counsel should be prepared to address the following remaining concerns:

(A) Informed consent of Funder

Has Ms. Ramirez been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyaltly is with Debtor, not Ms. Ramirez? Who provided such advice: independent counsel, or Debtor's proposed counsel? Has Ms. Ramirez given informed consent? Are those things in writing?

(B) Informed consent of Debtor

Has Debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing?

(C) Other considerations

Has proposed counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

(ii) Proposed counsel's disinterestedness

The parties should be prepared address whether proposed counsel is truly disinterested. Debtor's daughter is also before this Court, in a case that is being jointly administered with this one (*In re Karla Ramirez*, 2:18-bk-15055-NB). Proposed counsel for Debtor and for Debtor's daughter are closely affiliated if not essentially the same. Debtor and his daughter have financial interactions, including being co-owners of property.

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(b) Separate counsel required?

The tentative ruling is that Sergio and Karla Ramirez need counsel who are separate - not affiliated in the ways that their proposed counsel are affiliated. The parties should be prepared to address whether to adopt that tentative ruling, and, if it is adopted, how soon new counsel can be retained.

(2) Deadlines/dates. This case was filed on 9/26/18.

(a) Bar date: 2/7/19 (timely served, dkt. 46).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/29/19 at 1:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/4/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Joint administration

This Court has issued an order for joint administration of *In re Karla Ramirez* (Case No. 2:18-bk-15055-NB) (daughter; lead case) and *In re Sergio Alfredo Ramirez* (Case No. 2:18-21263-NB) (father). See lead case dkt. 86 (the "JointAdmin Order") (entered 11/26/18). That order directs that a notice of joint administration must be filed and served "in each case being jointly administered," and an amended master mailing list must be filed in the lead case that "contains the name and mailing address of all creditors and interest holders from each case being jointly administered." JointAdmin Order, para. 2 (emphasis added). As of the preparation of this tentative ruling, this Court's records do not reflect

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that those things have been done.

(b) Calendar management

A hearing has been set for 12/18/18 at 1:00 p.m. on the employment application (dkt. 37, 39). The tentative ruling is to continue the status conference in the daughter's case to that date (from its current date of 12/11/18 at 1:00 p.m.) and direct proposed counsel, Mr. Giron and Mr. Tang, to give notice.

(c) Allocation of assets, liabilities, and responsibilities, and potential conflicts between estates. As between the father and daughter, what is the correct record title (and actual ownership interests, if different) of the Downey rental property? Which of them are obligated on the debts secured by that property? Which of them has any interests in the rental income?

Does the father need to file a motion for use of cash collateral; a utility motion; a motion to assume or reject any leases; a budget motion; or other motions in connection with the Downey property?

What actual or potential conflicts may exist between the two bankruptcy estates and their creditors?

This Court anticipates addressing these issues only on a preliminary basis at this time. At the continued status conference they will be addressed more comprehensively.

(2) Deadlines/dates. This case was filed on 9/26/18.

(a) Bar date: 2/7/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/18/18 at 1:00 p.m., to be concurrent with the hearing on the employment application (dkt. 37, 39).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

Sergio Alfredo Ramirez

Represented By
Lionel E Giron

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2:17-10002 Rescue One Ambulance

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#7.00 Cont'd Status Conference re: Post Confirmation
fr. 1/17/17, 1/31/17, 2/21/17, 4/11/17, 05/09/17,
6/20/17, 8/22/17, 10/17/17, 12/12/17, 2/27/18,
5/29/18, 9/18/18, 12/18/18

Docket 1

Tentative Ruling:

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then. Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Continue to 1/29/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then. Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This status conference was continued from 8/18/18 to 9/18/18 (dkt.142). Based on recent docket activity, this Court is aware of the following issues.

(a) Dispute with State Compensation Insurance Fund (dkt. 145-156, 158, 159). Has this matter been resolved? Perhaps so, because the Status Report (dkt. 170) does not mention it. If not, what is the status of the parties' disputes?

(b) Final decree (dkt. 141, 151). The Status Report (dkt. 170) projects filing another motion by 12/31/18, so the tentative ruling is to continue this post-confirmation Status Conference to 12/18/18 at 1:00 p.m., with no written status report required and with the expectation that it might go off calendar if a motion for a final decree has been filed by then.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/29/18:

Continue to 8/18/18 at 1:00 p.m., *brief* status report due 8/4/18, based on the debtor's status report (dkt. 140), with those dates all subject to being mooted if a final decree is issued before that time. Appearances are not required on 5/29/18.

(1) Current issues. This court has no issues to raise *sue sponte*.

(2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 5/29/18 at 1:00 p.m., *brief* status report due 5/15/18, all subject to being mooted if a final decree is issued before that time. Appearances are not required on 2/27/18.

- (1) Current issues. This court has no issues to raise *sue sponte*.
- (2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/12/17:

Continue to 2/27/18 at 1:00 p.m., *brief* status report due 2/13/18, all subject to being mooted if a final decree is issued before that time. Appearances are not required on 12/12/17.

- (1) Current issues. This court has no issues to raise *sue sponte*.
- (2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rescue One Ambulance

Represented By
Michael Jay Berger

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19

Docket 5

Tentative Ruling:

Tentative Ruling for 1/29/19:

Appearances required. Continue as set forth below.

(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

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CONT...

Jackies Cookie Connection LLC

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At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral,

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budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g) (1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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#0.00 NOTE: If the (partial) government shutdown is renewed, many matters will be continued. See the tentative ruling for your individual matter.

Docket 0

Tentative Ruling:

- NONE LISTED -

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2:18-12429 Dana Hollister

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#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 2:00 p.m. with a *brief* status report due 2/15/19.
Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required for the Status Conference (calendar no.6) but not for the other matters (the fee applications; calendar nos. 3, 4 and 5 on 1/15/19 at 1:00 p.m.). Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Garrison (Accountant) Fee Application (dkt. 743). Grant. Allow on a final basis \$29,910.40 in fees, and \$0 in expenses, for a total of \$29,910.40.

(b) Tilem (Debtor's Counsel) Fee Application (dkt. 739). Grant. Allow on an interim basis \$211,365.00 in fees and \$2,303.16 in expenses, for a total of \$213,668.16, with a 15% holdback on the fees.

(c) Levene, Neale (Creditors Committee Counsel) Fee Application (dkt.

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738). Grant. Allow on an interim basis \$70,996.00 in fees and \$736.50 in expenses, for a total of \$71,732.50.

Proposed orders: Applicants are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Debtor's lack of payment of fees. The parties should be prepared to address Debtor's reported lack of payment of allowed interim fees.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: vacate the current date of 1/29/19 at 2:00 p.m., and set a continued date of 2/26/19 at 2:00 p.m. with a *brief* status report due 2/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

This Court has reviewed the status reports filed by Debtor (dkt. 700) and the Agent (dkt. 701).

(a) Expand Kaplan Employment (dkt. 461, 480, 497, 505, 534, 575, 576).

There is no tentative ruling, but Agent Dean Rallis should be prepared to apprise the Court of his current position on this motion.

(b) Further extension of exclusivity period (dkt. 685, 694, 695). Grant

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extension of the exclusivity periods to 3/15/19 to file a plan and 5/15/19 for a plan to be accepted under 11 U.S.C. 1121(c)&(d).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 1/29/19 at 2:00 p.m., with a *brief* status report due 1/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances are not required on 9/4/18.

(1) Current issues.

(a) Dissolution of "Oh Happy Day" (dkt. 544, 579, 583, 602). Grant, provided that all assets (tangible or intangible) in which Oh Happy Day, LLC currently has an interest must continue, after dissolution of that entity, to be administered by the Agent (to the full extent of any interest the debtor has in such assets). See Term Sheet (dkt. 547), section 6 (defining Agent Assets).

Proposed order: The debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Employment of Ballard, Rosenberg firm/Schwettmann as Special Counsel (dkt. 490, 532, 533, 546, 582). Continue to the same date and time as the continued status conference (set forth below), for the reasons set forth in the responses (dkt. 546, 582). In addition, no later than 10/2/18 the debtor is directed to file a supplement clarifying whether the proposed employment is of Mr. Schwettmann individually or his firm.

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(c) Expand Kaplan Employment (dkt. 461, 480, 497, 505, 534, 575, 576).

Continue to the same date and time as the continued status conference (set forth below), for the reasons set forth in the latest documents (dkt. 575, 576).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/16/18, with a *brief* status report due 10/9/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

This court anticipates issuing or posting a tentative ruling at a later time.

Tentative Ruling for 8/3/18:

Appearances required. The tentative rulings are set forth below. In addition, the tentative ruling is to set a continued status conference on 8/16/18 at 10:00 a.m., or such alternative time as may be ordered at the hearing.

(1) Current issues.

(a) Motion to Confirm Dean Rallis as Agent (dkt. 536). Grant (approve the appointment of Dean Rallis, Esq. as Agent) under the Term Sheet, as amended (see below), and subject to the provisions of this Court's order approving the settlement (dkt. 528, paragraphs 3, 4, and 6-8). The tentative ruling to grant this motion is based on the representation in the motion (dkt. 536, p.9:5-9) that the parties who objected/reserved their rights to object have now consented to the appointment of Mr. Ralis. (This Court disregards the invective, *id.* n.3 &

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accompanying text.) If that is incorrect then this tentative ruling is subject to any opposition at the hearing (see OST, dkt. 538). This tentative ruling is also based on this Court's review of the other relevant documents. See dkt. 495 (selection of proposed agent), 528 (order approving settlement), 531 (objection), 535 (Committee support), 536 (motion), Application for Order Shortening Time (dkt. 537, 540) and evidence of service (dkt. 541).

Proposed order: Counsel for the debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) 9019 Motion (see Term Sheet, dkt. 445, 528). This Court's Order (dkt. 528) approving Settlement directed the parties to prepare, sign and file a final version of the "Term Sheet" reflecting certain modifications. This Court notes that the debtor appears to have circulated a revised Term Sheet (dkt. 536, Ex.A) that incorporates the changes discussed on the record, although that revised Term Sheet is not "redlined" and this Court has not engaged in any line-by-line review of its terms. In any event, the parties are directed to provide a status report on when a declaration will be filed with this Court memorializing the fully executed final Term Sheet.

(c) Motion to Extend Time to Assume or Reject Lease (dkt. 457). The tentative ruling is to continue this motion to the date and time of the continued status conference, for the authorized Agent to consider and take a position on the merits of this motion.

Analysis: Although the debtor argues (e.g., in dkt. 534) that she is prejudiced by any lack of immediate decision on pending matters, the tentative ruling is that the debtor has not established undue prejudice because of (i) the debtor's own delay in selecting a nominee to be the Agent, (ii) the debtor's ability to engage in numerous other activities to attempt to turn around her finances without having to wait for those particular pending matters to be resolved, and (iii) the fact that, as this Court interprets the deadlines in the Term Sheet, "Approval" of the settlement did not occur until "entry" of an order approving the settlement (see dkt. 474, Ex.C, section 1, 1st paragraph, penultimate sentence), and the oral ruling was not entered on the docket, only the written order (dkt. 528) was entered, so the time of Approval (which commences the time for the debtor to perform various tasks under the Term Sheet) did not commence until entry of that written order on 7/25/18.

(d) Motion to Assume and Assign 1629 Griffith Lease (Presbytery) (dkt. 351). Continue to the date and time of the continued status conference, for the

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authorized Agent to consider the merits of this motion, for the same reasons as stated in section (1)(c) of this tentative ruling, above.

(e) Motion to Expand Scope of Kaplan Employment (dkt. 461, 480, 497, 505, 534). Continue to the date and time of the continued status conference, for the authorized Agent to consider the merits of this motion, for the same reasons as stated in section (1)(c) of this tentative ruling, above.

(f) Scheduling Conference re: Evidentiary Hearing on Motion to Assume 1356 Palmetto Lease (Bridge Tavern/Villain's) (dkt. 187). At the 7/18/18 hearing, this Court was informed that the proposed assignee/buyer had withdrawn. This Court subsequently issued an Order (dkt. 501) deeming the portion of the motion that sought to assign the lease moot and withdrawn, and continuing the portion of the motion that seeks to assume the lease to this hearing solely for scheduling further proceedings on this motion. The parties should be prepared to address a schedule for this motion and/or whether to continue the scheduling matters so that the Agent can determine whether or not to pursue this motion and related matters.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: Date and time set forth at the start of this tentative ruling. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/16/18:

Appearances required. The tentative rulings are set forth below. In addition, the tentative ruling is to set a continued status conference on 7/27/18 at 9:00 a.m., or

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such alternative time as may be ordered at the hearing.

(1) Current issues.

(a) 9019 Motion (see Term Sheet, dkt. 445). This Court will address the objections filed by Mr. Casanova (dkt. 465, 466) and The Presbytery of the Pacific (the "Presbytery") (dkt. 467) and the replies filed by the debtor (dkt. 472) and by the Archbishop/Institute and the Bird Nest (dkt. 474). Among other things, this Court will address whether the Term Sheet can be approved without the further documentation that is contemplated by the settling parties. In that regard, the parties should address the proposed amendment to paragraph 6 of the Term Sheet. See dkt. 474, Ex.C.

This Court expresses no present opinion on those issues. This Court is intentionally withholding any further tentative ruling on those matters so as not to disrupt potential settlement discussions among those parties, but if the parties have not agreed to the proposed amendment to paragraph 6 (or some other resolution) then this Court intends to provide a tentative ruling at the commencement of the hearing.

The parties are encouraged to meet and confer about the foregoing issues. If, at the end of the hearing, there are issues that remain to be addressed, then the parties should be prepared to address whether this Court should set a continued hearing on the date and time specified at the start of this tentative ruling or some other date.

(b) Stay relief motion (appellate litigation with Bird Nest and Archbishop/Institute) (dkt. 68). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(c) Exclusivity motion (dkt. 308, 348, 422). Continue to the date and time set forth at the start of this tentative ruling, and meanwhile extend exclusivity for the same amount of time, on the same terms and conditions as this Court's Prior Order (dkt. 422) - *i.e.*, no incurring of fees or expenses for plan-related work. This Court calculates that the extensions would be as follows: (i) The 120-day period specified in section 1121(c)(2) and (d)(1) (deadline for filing a plan) will be further extended from 8/15/18 (see dkt. 422) to and including 9/19/18, and (ii) the 180-day period specified in section 1121(c)(3) and (d)(1) (deadline for acceptance of plan by impaired classes) will be further extended from 10/15/18 (see dkt. 422) to and including 11/19/18.

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(d) Cash Collateral motion (dkt. 5). Continue to the date and time set forth at the start of this tentative ruling, and meanwhile extend the interim authorized use of cash collateral through and including the conclusion of the continued hearing subject to the same terms and conditions as previously authorized by this Court (see dkt. 29, 79, 239, 244, 347, 413), if this motion is not mooted by the disposition of the settlement motion.

(e) Bridge Tavern, LLC asset sale motion (dkt. 112). Continue to the date and time set forth at the start of this tentative ruling.

(f) Villain's Tavern reopening motion (dkt. 214). Grant. *Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(g) Trustee appointment motion (dkt. 332). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(h) Security Deposit refund motion (dkt. 350). Grant. *Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(i) Budget motion (dkt. 96). Extend the interim authorization through and including the date of the continued hearing and meanwhile approve the budget subject to the same terms and conditions as previously authorized by the Court (see dkt. 340), if this motion is not mooted by the disposition of the settlement motion.

(j) Claim objection (Bird Nest) (dkt. 292). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(k) Claim objection (Institute) (dkt. 296). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(l) Claim objection (Archbishop) (dkt. 294). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(m) Vehicle refinance motion (dkt. 216). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(n) Vehicle relief from Stay motion (dkt. 349). The hearing on this motion has been vacated, and this matter is off calendar (see Adequate Protection

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Order, dkt. 444).

(o) Motion to Assume and Assign 1629 Griffith Lease (dkt. 351).

Continue to the date and time set forth at the start of this tentative ruling.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: Date and time set forth at the start of this tentative ruling. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/22/18:

Appearances required.

(1) Current issues.

(a) Urbanlime/Haro employment (dkt. 93, 253), Bridge Tavern (Villain's) Reopening Motion (dkt. 214, previously granted, dkt. 339, but rescheduled per dkt.369 para. 4.5), Sale Motion (dkt. 112, temporarily denied, dkt. 369, 385) and Lease Assignment Motion (dkt. 187, re-set for hearing, dkt. 388). The parties should be prepared to address the issues set forth in this Court's orders (dkt. 369, 378, 385, 388) setting this hearing.

(b) Motion to extend exclusivity (dkt. 308, 312, 333, 348). The tentative ruling is to preserve the status quo by:

(i) prohibiting the estate from incurring any fees or expenses relative to any contemplated plan between time this tentative ruling is posted and the conclusion of the hearing on the motion to appoint a trustee (dkt. 332, the "Trustee Motion"), currently scheduled for 7/10/18 at 2:00 p.m;

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(ii) if the Trustee Motion is denied, then extending exclusivity through at least 8/14/18 (any further extension will be addressed at the hearing on 7/10/18 at 2:00 p.m.), so that Mr. Tilem will have the time he has stated he would need to draft a plan (approximately 30 days); and

(iii) if the Trustee motion is granted, then terminate exclusivity.

(c) Cash collateral motion (dkt. 5, 14, 15, 29, 74, 151, 152, 163, 164, 167, 168, 171, 172, 176, 185, 244). The tentative ruling is to continue this matter to 7/10/18 at 2:00 p.m., and meanwhile authorize the continued use of cash collateral through the conclusion of that continued hearing.

(d) Relief from stay motion (dkt. 68, 79, 141, 147, 154, 162, 222 section v., 270, 312). The tentative ruling is to continue this matter to 7/10/18 at 2:00 p.m.

(e) Expansion of Insul employment (dkt. 305). Please see calendar no. 2 (6/22/18 at 10:00 a.m.).

(f) Hearings on 7/10/18. Some matters in this case have been self-calendared for 7/10/18 at 1:00 p.m. The tentative ruling is that all matters set for 7/10/18 in this case will be heard at 2:00 p.m.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/10/18 at 2:00 p.m., status report due 7/5/18 at noon.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

This court anticipates posting a tentative ruling at a later time. [**Note: no further**

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tentative ruling was posted.]

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Tentative Ruling for 5/7/18:

[See Memorialization of Tentative Rulings for 5/7/18 (dkt. 234, 236, 238, 239)]

Tentative Ruling for 5/3/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The only issue this Court intends to address is a continued hearing date in view of the last-minute papers that were filed, to fit the parties' and this Court's own needs.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

Appearances required by counsel for the debtor. Other parties in interest are invited but not required to appear.

Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Cash flow and cash collateral motion (dkt. 5, 14, 15, 29). This Court's written order (dkt. 29) erroneously lists the continued hearing as 3/20/18 instead of 4/17/18 at 2:00 p.m., as orally ordered at the hearing on 3/9/18. Nevertheless, it is appropriate in connection with this Status Conference to address the debtor's current and projected cash flow and related issues.

This Court was not persuaded at the hearing on 3/9/18 that the debtor can

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generate positive cash flow. The debtor is directed to provide a brief update on any plans to generate positive cash flow from her various businesses and properties. It is also appropriate for other parties in interest to address whether there has been adequate disclosure to date regarding the finances of those businesses and properties. The debtor is cautioned that the declaration due on 3/27/18 must provide comprehensive disclosures regarding those businesses and properties: if the debtor cannot show reasonable prospects for positive cash flow within a reasonable time then this Court might have to grant relief from the automatic stay (upon a proper motion), or convert or dismiss this bankruptcy case, at least if the debtor does not abandon unprofitable businesses or properties.

(b) Employment applications. The parties should be prepared to address the oppositions (dkt. 56, 57) and the direct and indirect source(s) of funds used by the debtor to pay prepetition retainers (see dkt. 48, *and cf.* dkt. 9, p.6, dkt. 18, p.8, dkt. 20, p.8 - blank spaces instead of disclosure), including when the liens against the 1902 property arose (dkt. 48, Ex.A). In addition, the parties should be prepared to address the following issues:

(i) Proposed bankruptcy counsel - Tilem (dkt. 9, 10): (i) Why were resumes for associates, paralegals, and persons who are "of counsel" to the firm not included? (ii) Has counsel waived or amended the provisions in the retainer agreement regarding the "evergreen" retainer; "overtime" rates, and any attorney's lien? (iii) As for proposed out-sourcing, counsel must address whether employment of such counsel could result in imputed or actual conflicts of interest from any work performed by such attorneys for their own clients or for other law firms.

(ii) Proposed special counsel: the Robins firm and Horvitz firm (dkt. 18, 19, 20, 21). The hourly rates of proposed counsel at the Robins firm and Horvitz firm are substantially greater than those for the debtor's proposed general bankruptcy counsel and the Snyder firm. How will the debtor - acting as a debtor in possession with the duties of a trustee for the benefit of creditors - assure that the potential benefits are not outweighed by the costs that can be reasonably anticipated in connection with the ongoing litigation with Birds Nest, the Archbishop, and the Institute (as those terms are defined in the parties' papers)?

(iii) Proposed special counsel: the Snyder firm (dkt. 36, 37). (i) What is the nature of the litigation in which that firm represents the debtor and co-plaintiff, Bridge Tavern, LLC against Odysseus Investment Group, LLC? (ii)

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What are the potential costs/risks and benefits? (iii) Is there any actual or potential conflict of interest between the two plaintiffs (e.g., if any judgment in their favor were to be allocated between them in a way that is unfavorable to one or the other)? (iv) From the description at the status conference on 3/9/18 it seemed that the Snyder firm might be assisting the debtor now or in future in transactional matters - is that so?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/17/18 at 2:00 p.m., status report due 4/3/18. (see order, dkt. 30).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/9/18:

[no tentative ruling was posted for this hearing]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#2.00 Hrg re: Motion to Appoint Trustee For the Appointment of a Chapter 11 Trustee or in the Alternative to Convert the Case to Chapter 7

Docket 399

***** VACATED *** REASON: Cont. to 2/26/19 at 2p.m. per stip. (dkt. 410)
and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#3.00 Hrg re: Motion to Confirm Plan of Reorganization Proposed
by Layne Leslie Britton or in the Alternative to Appoint a
Chapter 11 Trustee

Docket 406

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19
at 2:00 p.m.)

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#4.00 Hrg re: Motion for Order Dismissing the Bankruptcy Case

Docket 411

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19 at 2:00 p.m.)

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#5.00 Cont'd hrg re: Motion for Entry of Order Approving: (A) the "Disclosure Statement in Support of Plan of Reorganization Proposed by Layne Leslie Britton and Debra West" as Containing Adequate Information; (B) the Form, Scope, and Nature of Solicitation, Balloting, Tabulation, and Notices with Respect Thereto; and (C) Related Confirmation Procedures, Deadlines and Notices
fr. 09/18/18, 10/2/18, 11/6/18

Docket 341

Tentative Ruling:

Tentative Ruling for 1/29/19:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19 at 2:00 p.m.)

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the status conference (calendar no. 13, 11/6/18 at 2:00 p.m.)

Tentative Ruling for 10/2/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the papers pertaining to the plan proposed by creditors Mr. Britton and Ms. West (see dkt. 341-60) and particularly the issues of (1) impairment of Class 6, (2) compliance with 11 U.S.C. 1129(a)(5)(A), and (3) the possibility of a structured dismissal or alternative plan proposed by the debtor and Mr. Riggs.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, January 29, 2019

Hearing Room 1545

2:00 PM

CONT... Cloudbreak Entertainment, Inc.

Chapter 11

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

Movant(s):

Layne Leslie Britton

Represented By
Eric D Winston
Shahin Rezvani
Jennifer L Nassiri

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#6.00 Cont'd hrg re: Motion for Order Disallowing Claim 5-1 of Debra West, Formerly Known as Debra Riggs fr. 1/10/17, 02/28/17, 04/25/17, 06/20/17, 9/19/17, 12/19/17, 2/27/18, 11/6/18

Docket 169

Tentative Ruling:

Tentative Ruling for 1/29/19:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19 at 2:00 p.m.)

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the status conference (calendar no. 13, 11/6/18 at 2:00 p.m.)

Tentative Ruling for 2/27/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. At the 12/19/17 hearing, this court continued the status conference for the parties to first address the debtor's motion for an order estimating Mr. Britton's claim (dkt. 297). There is no tentative ruling, but the parties must address the underlying papers concerning that motion, including Mr. Britton's opposition (dkt. 314) and the debtor's reply (dkt. 317).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Cloudbreak Entertainment, Inc.

Chapter 11

Tentative Ruling for 12/19/17:

Continue to 2/27/18 at 2:00 p.m. because, so far as this court can tell, it probably makes sense first to address the debtor's motion for an order estimating Mr. Britton's claim (dkt. 297), which is presently set for hearing on 1/23/18. If any party in interest disagrees, or believes that it would be useful to have appearances at a status conference on this claim at this time, they may contest this tentative ruling as provided below. Appearances are not required on 12/19/17.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

Movant(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, January 29, 2019

Hearing Room 1545

2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#7.00 Cont'd hrg re: Motion for Order Estimating Claim of Layne Leslie Britton for Purposes of Allowances and Distribution
fr. 01/23/18, 1/30/18, 3/20/18, 5/1/18, 11/6/18

Docket 297

Tentative Ruling:

Tentative Ruling for 1/29/19:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19 at 2:00 p.m.)

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the status conference (calendar no. 13, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 5/1/18:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/1/18 at 2:00 p.m.).

Tentative Ruling for 3/20/18:

Please see the tentative ruling for the status conference (calendar no. 7, 3/20/18 at 2:00 p.m.).

Tentative Ruling for 1/30/18:

Please see the tentative ruling for the status conference (calendar no. 2, 1/30/18 at 2:00 p.m.).

Tentative Ruling for 1/30/18:

This court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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CONT... Cloudbreak Entertainment, Inc.

Chapter 11

Peter J Crosby

Movant(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

**United States Bankruptcy Court
Central District of California
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2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16,
9/6/16, 11/29/16, 12/13/16, 02/28/17, 4/25/17,
5/23/17, 7/11/17, 8/22/17, 10/03/17, 1/23/18,
1/30/18, 3/20/18, 5/1/18, 11/6/18

Docket 7

Tentative Ruling:

Tentative Ruling for 1/29/19:

This Court anticipates either posting a tentative ruling at a later time or providing an oral tentative ruling at the hearing. Appearances required.

Tentative Ruling for 11/6/18:

This Court has been informed via a telephone call to chambers that there have been recent consensual resolutions of some issues. Accordingly, there is no tentative ruling. Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 5/1/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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CONT... **Cloudbreak Entertainment, Inc.**

Chapter 11

(1) Current issues: The debtor and Mr. Britton have stipulated (dkt. 327) to continue the hearing on the motion to estimate Mr. Britton's claim to 10/30/18 at 2:00 p.m. This Court issued an order (dkt. 328) setting the matter for hearing so that Ms. West can be heard on the proposed continuance, if she wishes. The tentative ruling is to approve the stipulation, but with one additional week, to 11/6/18@2, because the date selected by the parties is not available on this Court's calendar.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: TBD

(c) Continued status conference: 7/17/18 at 2:00 p.m.; brief Status Report due 7/9/18 at noon.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

Appearances required.

(1) Current issues: estimating Mr. Britton's claim

This matter has been substantially briefed and argued at prior hearings (see para. "(1)" of Revised Tentative Ruling for 1/30/18, reproduced below, and Mr. Britton's Opposition to Estimation Motion, dkt. 315, and debtor's Reply, dkt. 317, 322). This Court anticipates providing an oral tentative ruling at the start of the hearing, followed by a brief time (maximum 10 minutes each) for further argument before this Court makes a final ruling on the estimation motion.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: TBD

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CONT...

Cloudbreak Entertainment, Inc.

Chapter 11

(c) Continued status conference: 4/17/18; no written Status Report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 1/30/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues: estimating Mr. Britton's claim

At the hearing on 10/3/18 this court contemplated that after the debtor filed its motion (dkt. 297) for an order estimating the claim of creditor Layne Leslie Britton then this court would set a briefing schedule. The tentative ruling is to set the briefing schedule set forth below.

This court notes that the parties have already briefed, and this court has preliminarily addressed, some of the underlying issues, in connection with the debtor's prior motion for an order approving a draft plan and disclosure statement. Therefore a longer briefing schedule does not appear to be necessary. See dkt. 244 (motion), dkt. 260 (opposition, especially at pp.17:11-21:13 and Winston Decl. Ex.1.B.), dkt. 263 (reply, especially at pp.9:9-12:24), transcript of 8/22/17 hearing (dkt. 272), debtor's status report (dkt. 273), and audio recording of 10/3/17 hearing.

Tentative briefing schedule:

2/13/18 deadline for Mr. Britton's opposition to estimation motion (dkt. 297)

2/20/18 deadline for reply by the debtor

2/27/18 at 2:00 p.m., hearing

(2) Deadlines/dates. This case was filed on 12/1/15.

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CONT...

Cloudbreak Entertainment, Inc.

Chapter 11

- (a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).
- (b) Plan/Disclosure Statement: TBD
- (c) Continued status conference: to be held concurrent with the hearing on the claim estimation motion; no written Status Report required (but if any status report is filed by any party, it should be filed at the same time as the debtor's reply so that this court will have adequate time to review it before the hearing).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/23/18:

Continue to 1/30/18 at 2:00 p.m. to be concurrent with the preliminary hearing (for scheduling purposes) on the debtor's motion (dkt. 297) to estimate Mr. Britton's claims. Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/3/17:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the debtor's status report (dkt. 273), and any other matters appropriate for a status conference.

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CONT... **Cloudbreak Entertainment, Inc.**

Chapter 11

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/22/17:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the debtor's motion for approval of the proposed disclosure statement (dkt. 244), the Britton opposition (dkt. 260), the debtor's reply (dkt. 263), the debtor's status report (dkt. 262), and any other matters appropriate for a status conference.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/11/17:

Continue as set forth below. Appearances are not required on 7/11/17.

(1) Current issues

No *sua sponte* issues at this time.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement (dkt. 246, 245): D/S hearing scheduled for 8/22/17 at 2:00 p.m. (see dkt. 253).

(c) Continued status conference: 8/22/17 at 2:00 p.m.; brief Status Report due 8/15/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/23/17:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.",

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CONT... **Cloudbreak Entertainment, Inc.**
"Instructions/Procedures").

Chapter 11

(1) Current issues

The parties should be prepared to update this court on the status of the issues noted in the debtor's Eighth Status Report (dkt. 231), as well as whether this court should set any deadlines or procedures.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: The court will discuss setting deadlines related to the Plan/Disclosure Statement at the status conference.

(c) Continued status conference: 6/20/17 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/25/17:

Continue all matters to 5/23/17 at 1:00 p.m. pursuant to the debtor's request in the Seventh Status Conference Report (dkt. 224, p.3). Appearances are not required on 4/25/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 2/28/17:

Continue all matters to 4/25/17 at 1:00 p.m. pursuant to the debtor's request in the Sixth Status Conference Report (dkt. 212, p.3). Appearances are not required on 2/28/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

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CONT... Cloudbreak Entertainment, Inc.

Chapter 11

Revised Tentative Ruling for 12/13/16:

Continue all matters to 2/28/17 at 2:00 p.m. pursuant to the parties' request in the status conference statement (dkt. 181, p.3). Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 12/13/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The parties should be prepared to update this court on the status of this case including their negotiations, why this court should not order mandatory mediation, which parties in interest should be included in such mediation, and any other appropriate procedures regarding payment of professionals, filing documents under seal, etc.

(2) Deadlines/dates. This case was filed on 12/1/15.

- (a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).
- (b) Plan/Disclosure Statement: no deadline
- (c) Continued status conference: 2/28/17 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.",

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CONT... **Cloudbreak Entertainment, Inc.**
"Instructions/Procedures").

Chapter 11

(1) Current issues

(a) Fee applications. The tentative ruling is (1) after the reductions that Browne concedes, to overrule the Britton objection to Browne's fees; (2) to sustain in part the limited objection of Ms. West by allowing 100%, but temporarily deferring any payment (either from any retainer or from other sources), on account of the fee applications, with a deadline of 12/12/16 for Ms. West to file (a) an adversary proceeding to determine the relative priorities of her rights and interests in the royalties, and/or other funds in which the debtor's estate asserts an interest, as against the debtor, its creditors, and other parties in interest, and (b) a request (motion) for adequate protection of her alleged claims or interests (pursuant to 11 U.S.C. 361 and 363(c), (e), (p), and Rule 7001(2), (7) & (9), Fed. R. Bankr. P.). In addition, this court anticipates providing a tentative ruling on the merits of Ms. West's asserted rights and interests, and addressing what documents (already filed or filed in future) do or do not have to be under seal, and establishing a mutually workable procedure for any sealed documents.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: no deadline

(c) Continued status conference: 4/4/17 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/6/16:

Continue to 12/13/16 at 1:00 p.m. based on the debtor's current status report (dkt. 112). Appearances are not required on 9/6/16.

The debtor is directed to file a brief status report two weeks before the continued status conference.

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CONT... **Cloudbreak Entertainment, Inc.**

Chapter 11

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 4/12/16:

Continue to 9/6/16 at 11:00 a.m. to address the following issues. Appearances are not required on 4/12/16.

Based on the statements made in the debtor's status report (dkt. 92), this Court continues this status conference as set forth above. The debtor shall file a brief status report two weeks before the continued status conference.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 2/2/16:

Continue to 2/23/16 at 2:00 p.m. unless any opposition/response to employment or recusal are filed prior to 1/30/16. Appearances are not required on 2/2/16.

Reasons: At the hearing on 1/19/16, this court stated that the status conference would be continued without further hearing if no oppositions/responses to employment or recusal were received by the deadline for such things, which is 1/29/16. As of the preparation of this tentative ruling (on 1/29/16) no such documents have yet been filed.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Revised Tentative Ruling for 1/19/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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CONT... **Cloudbreak Entertainment, Inc.**

Chapter 11

Key documents reviewed: Motion for relief from automatic stay (dkt. 11), the debtor's opposition (dkt. 33), and the movant's reply (dkt. 46); and the debtor's application to employ Browne George Ross LLP as special counsel under 11 U.S.C. 327(e) and supporting papers (dkt. 26-30, 44, 45).

(1) Current issues.

(a) Background. Claimant Britton's motion for relief from the automatic stay (dkt. 11) seeks to modify the automatic stay to liquidate the parties' claims in the underlying State Court action (*Britton v. Riggs*, LA Superior Ct. No. BC 496298). Just before trial was set to commence, the debtor filed this bankruptcy case, and trial has now been continued to 2/10/16. The debtor has filed an application (dkt. 26) to employ its existing attorneys in the State Court action as special counsel.

In view of the apparent urgency of these matters, this Bankruptcy Court issued an order raising a number of its initial concerns (dkt. 35), held a preliminary hearing on 1/8/16, and directed the debtor to serve a supplemental notice addressing certain issues. In addition, when Judge Bason's law clerk learned of certain attenuated connections between him and the parties in this case, those matters were disclosed on the record (dkt. 39), and the debtor was directed to serve those disclosures on all parties in interest.

The debtor complied with these notice requirements (see dkt. 44, 43, 45) and the period for any response expires on 1/29/16 (fixed date in dkt. 39 as to this court's disclosures; and service on 1/11/16 + 14 days' notice + 3 days for service via U.S. mail = 1/29/16 as to the employment application). As of the time when this tentative ruling has been prepared (1/18/16) no response on either matter appears on the docket.

(b) Relief from the automatic stay. The tentative ruling is to modify the automatic stay as follows, effective immediately upon (i) entry of an order of this court granting the employment application (so that the debtor can defend and prosecute its claims in the State Court action) and (ii) resolution of any request to be heard regarding recusal. Specifically, the automatic stay would be modified to permit litigation of the State court action insofar as *liquidating* claims by Mr. Britton against the debtor and its principal, Mr. Riggs, as well as liquidating any counterclaims, including all subsidiary disputes such as whether the statute of limitations should be tolled and any alter ego issues, but not to permit

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CONT... **Cloudbreak Entertainment, Inc.**

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enforcement of any judgment against any property in which the debtor asserts an interest absent further order of this Bankruptcy Court.

Judge Bason is not persuaded by the debtor's argument that the statute of limitations issue should be addressed by this Bankruptcy Court before any State Court litigation is permitted to continue. The principles underlying the *Rooker Feldman* doctrine (that this Bankruptcy Court may not act as essentially an appellate court for State Court determinations), as well as comity, a respect for the State Court's determination of these issues, conservation of judicial resources, the avoidance of forum shopping, and not permitting a party to obtain "two bites at the apple" all weigh against deciding the statute of limitations issues here. The State Court issued a detailed tentative ruling (dkt. 46-1, Ex.A, pp.23-26) regarding the statute of limitations issues, including its conclusion that those issues could not be determined as a matter of law because a reasonable trier of fact "may well determine that the delay in filing the action was due to the Defendants' fraud or other misconduct such that Defendants should be estopped from asserting the statute of limitations," and the State Court apparently adopted that tentative ruling when it denied the defendants' motion for summary judgment and declined to address the statute of limitations issues before trial. Judge Bason is not persuaded that this Bankruptcy Court can or should revisit that determination.

As to any claims that are truly alter ego claims (as distinguished from fraudulent transfer claims or other avoidance actions that belong to this bankruptcy estate), the tentative ruling is that under the *Ahcom* decision (623 F.3d 1248 (9th Cir. 2010)), any such claims do not belong to the bankruptcy estate and, therefore, the automatic stay would not prevent claimant Mr. Britton from seeking to establish and pursue any alter ego claims against Mr. Riggs. Alternatively, the tentative ruling is to modify the automatic stay (if it applied) to permit such true alter ego claims to be litigated (when and if the State Court determines that they should be) because if those issues turn out to be relevant then they will have to be litigated anyway, and the State Court would be the proper forum in which to litigate them. To the extent that the debtor seeks to stay (enjoin) any such alter ego claims against Mr. Riggs in this bankruptcy case, such an injunction would have to be the subject of a separate adversary proceeding. See, e.g., *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007).

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(c) Employment of special litigation counsel. The tentative ruling is to conditionally approve employment of special litigation counsel for the reasons stated at the preliminary hearing on 1/8/16 and in the application (dkt. 26) and debtor's supplemental disclosures (dkt. 44). The condition is that no order approving such employment should be lodged until after the period for responses to such application or to this court's disclosures has expired (on 1/29/16), and of course if any such response is filed then this court will consider such responses (at a hearing as set forth below).

The potential for alter ego claims does not appear to create any cognizable conflict, at least at this stage of the litigation. Although it could be argued that there would be a conflict because any recovery that Mr. Britton could obtain from Mr. Riggs would *decrease* his claim against the debtor, and therefore theoretically *benefit* the debtor, it seems more likely at this stage that both Mr. Riggs and the debtor have a unified interest in contesting any asserted grounds for alter ego liability (i) so as to assure that Mr. Riggs devotes his energies to the debtor's future success and ability to pay its creditors, and (ii) so as to attempt to assure that there is a level playing field among the debtor's creditors (which, arguably, there would not be if one creditor - Mr. Britton - could pursue alter ego recoveries before other creditors could seek to do the same).

Of course, counsel for the debtor (both general and special counsel) and Mr. Riggs himself will need to monitor the situation continually. If a conflict or potential conflict does develop, they will need to file appropriate disclosures and/or seek a supplemental ruling from this court regarding the terms of any continued employment of special counsel.

(d) Tentative hearing. If any response is filed to either the employment application or this court's disclosures, then a hearing will take place on 2/2/16 at 2:00 p.m. to address those things. If there is any such response, the debtor must notify chambers so that the matter may be added to this court's calendar for that day.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement*: file by 7/1/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

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Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 2/2/16 at 2:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/19/16:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/5/16:

Appearances required by counsel for the debtor and by the principal of the debtor.

(1) Current issues.

(a) Affiliated businesses. The debtor's status report (dkt. 20, p.8:17-9:3) requests that the debtor be excused from providing financial information concerning affiliates in both the status report and monthly operating reports. The tentative ruling is to grant that request.

(b) Service of status report. This court's form status report must be served on, *inter alia*, all of the debtor's secured creditors and the top 20 largest general unsecured creditors. It appears that there are no secured creditors, but that unsecured creditors were not served (see dkt. 20, p. 10). The tentative ruling is to direct the debtor, no later than 1/6/16, to serve all parties in interest with a copy of the status report and this tentative ruling, and then parties in interest may, if they choose, raise any appropriate issues at future status conferences.

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Cloudbreak Entertainment, Inc.

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(c) Plan and disclosure statement. The debtor has suggested (dkt. 20, p.4:20-23) a deadline of 4/30/16 to file initial drafts. The debtor should be prepared to address the associated procedures, including the local form plan and whether that deadline is consistent with the pending litigation with creditor Layne Leslie Britton (dkt. 11), currently set for trial in State court for 2/10/16.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement*: file by 4/30/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 1/19/16 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

**United States Bankruptcy Court
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10:00 AM

2:19-10762 Koi Design LLC

Chapter 11

#1.00 Hrg re: Emergency Motion of Debtor for an Order (1) Authorizing, But Not Requiring, Debtor to Pay Prepetition (A) Wages, Salaries, and Other Compensation, (B) Employee Medical, Workers' Compensation, Paid Time Off, and Similar Benefits, and (C) Reimbursable Employee Expenses; and (2) Authorizing and Directing Applicable Banks and Other Financial Institutions to Receive, Process, Honor and Pay Checks Presented for Payment and to Honor Fund Transfer Requests

Docket 3

Tentative Ruling:

Grant on an interim basis, subject to any opposition presented at the hearing, with a final hearing on 2/26/19 at 1:00 p.m., and a deadline of 2/1/19 for the movant to file and serve a notice of the final hearing. The tentative ruling is to find that such relief is necessary to "avoid immediate and irreparable harm" within the meaning of Rule 6003 (Fed. R. Bankr. P.). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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10:00 AM

2:19-10762 Koi Design LLC

Chapter 11

#2.00 Hrg re: Emergency Motion for Authority to: (A) Use Cash Collateral on an Interim Basis Pending a Final Hearing; (B) Grant Replacement Liens; and (C) Set Final Hearing

Docket 4

Tentative Ruling:

Grant the motion (docket no.4) on an interim basis, subject to the conditions set forth below and any opposition at the hearing, with a final hearing on 2/26/19 at 1:00 p.m., and a deadline of 2/1/19 for the movant to file and serve a notice of the final hearing. Appearances required.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance

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CONT... Koi Design LLC

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in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured

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claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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10:00 AM

2:19-10762 Koi Design LLC

Chapter 11

#3.00 Hrg re: Emergency Motion for Order (I) Authorizing the Continued Use of the Debtor's Cash Management System, (II) Authorizing the Maintenance of the Debtor's Pre-Petition Bank Accounts, and (III) Requiring Banks to Release Administrative Holds and/or Freezes on the Debtor's Pre-Petition Bank Accounts

Docket 6

Tentative Ruling:

Appearances required. Grant on an interim basis, subject to (1) any opposition presented at the hearing, (2) assurances that Debtor is maintaining sufficient records to account for all assets and liabilities as of the petition date, and (3) assurances that Debtor has adequate safeguards against payment of prepetition claims (except whatever payments are authorized by the payroll motion). The tentative ruling is to set a final hearing on 2/26/19 at 1:00 p.m., with a deadline of 2/1/19 for the movant to file and serve a notice of the final hearing. In addition, the tentative ruling is to find that such relief is necessary to "avoid immediate and irreparable harm" within the meaning of Rule 6003 (Fed. R. Bankr. P.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:00-00000

Chapter 0

#1.00 NOTE: If the (partial) government shutdown is renewed, many matters will be continued. See the tentative ruling for your individual matter.

Docket 0

Tentative Ruling:

- NONE LISTED -

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Hearing Room 1545

10:00 AM

2:17-14431 Patrick George Knight and Edith Irmtraut Knight

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

JPMORGAN CHASE BANK, NA
vs
DEBTOR

Docket 29

Tentative Ruling:

Take this motion for relief from the automatic stay off calendar, in view of Debtors' motion to commence loan modification program (see dkt. 32, Ex.A), without prejudice to the movant self-calendaring this motion for relief from the automatic stay again if the loan modification program is not commenced or is terminated without a consensual loan modification. Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patrick George Knight

Represented By
Barry E Borowitz

Joint Debtor(s):

Edith Irmtraut Knight

Represented By
Barry E Borowitz

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CONT... Patrick George Knight and Edith Irmtraut Knight

Chapter 13

Movant(s):

JPMORGAN CHASE BANK, NA

Represented By
Lee Gates
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:17-20553 Victor Emmanuel Cruz Santos and Eustaquia Teresita

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

JPMORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 33

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 35).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Victor Emmanuel Cruz Santos

Represented By
Brad Weil

Joint Debtor(s):

Eustaquia Teresita Lozada Santos

Represented By
Brad Weil

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

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CONT... Victor Emmanuel Cruz Santos and Eustaquia Teresita

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:17-24650 Lidia Alicia Pedone

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 55

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown, and for the reasons stated in the debtor's opposition (dkt. 57).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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CONT... Lidia Alicia Pedone

Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lidia Alicia Pedone

Represented By
Steven A Alpert

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-15783 Jose Villacorta and Sharlette M. Villacorta

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 38

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 40).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Villacorta

Represented By
R Grace Rodriguez

Joint Debtor(s):

Sharlette M. Villacorta

Represented By
R Grace Rodriguez

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Daniel K Fujimoto

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CONT... Jose Villacorta and Sharlette M. Villacorta
Caren J Castle

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-19018 Merita F. Fulmore

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

JAMES M HANSEN
ALEXANDER J HANSEN
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 35).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Merita F. Fulmore

Represented By
James D. Hornbuckle

Movant(s):

James M Hansen and Alexander J

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-20271 Kevin Kenji Oda and Lydia Marie Ramirez Oda

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 23

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 26).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kevin Kenji Oda

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Lydia Marie Ramirez Oda

Represented By
Ramiro Flores Munoz

Movant(s):

Deutsche Bank National Trust

Represented By
Dane W Exnowski

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Kevin Kenji Oda and Lydia Marie Ramirez Oda

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-24131 Nikogos Kosoyan

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK, NA
vs
DEBTOR

Docket 27

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Nikogos Kosoyan

Represented By
Richard T Baum

Movant(s):

U.S. BANK, NA AS LEGAL TITLE

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-24721 Yuridil Ttapia Cruz

Chapter 13

#9.00 **[CASE DISMISSED ON 1/7/2019]**

Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 11

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Yuridil Ttapia Cruz

Chapter 13

laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Yuridil Ttapia Cruz

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Yuridil Ttapia Cruz

Pro Se

Movant(s):

Deutsche Bank National Trust

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-24721 Yuridil Ttapia Cruz

Chapter 13

#10.00 ***[CASE DISMISSED ON 1/7/2019]***

Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Yuridil Ttapia Cruz

Chapter 13

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT... Yuridil Ttapia Cruz

Chapter 13

tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Yuridil Ttapia Cruz

Pro Se

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:19-10006 Irene Ingram

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

BRIAN SCOTT CHASIN, TRUSTEE OF THE
S.B.C. TRUST
VS
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1),(d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Irene Ingram

Chapter 13

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Irene Ingram

Pro Se

Movant(s):

Brian Scott Chasin, Trustee of the

Represented By
Russel T Little

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Irene Ingram

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-20312 Shawna Roong

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 21

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Shawna Roong

Represented By
Michael Jay Berger

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-21121 Michael James Wangler and Donna Beth Troy Wangler

Chapter 7

#13.00 Hrg re: Motion for relief from stay [PP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 33

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Michael James Wangler and Donna Beth Troy Wangler

Chapter 7

Party Information

Debtor(s):

Michael James Wangler

Represented By
Summer M Shaw
Jenny L Doling

Joint Debtor(s):

Donna Beth Troy Wangler

Represented By
Summer M Shaw
Jenny L Doling

Movant(s):

U.S. Bank National Association

Represented By
Robert P Zahradka

Trustee(s):

Heide Kurtz (TR)

Represented By
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-21783 Kevin Craig Stephens and Sheila Jeanette Stephens

Chapter 13

#14.00 Hrg re: Motion for relief from stay [PP]

VW CREDIT, INC.
vs
DEBTOR

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Kevin Craig Stephens and Sheila Jeanette Stephens

Chapter 13

Party Information

Debtor(s):

Kevin Craig Stephens

Represented By
Kevin T Simon

Joint Debtor(s):

Sheila Jeanette Stephens

Represented By
Kevin T Simon

Movant(s):

VW Credit, Inc.

Represented By
Darren J Devlin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#15.00 Hrg re: Motion for relief from stay [PP]

DIRECT CAPITAL CORPORATION
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Jackies Cookie Connection LLC

Chapter 11

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

Movant(s):

Direct Capital Corporation

Represented By
Raffi Khatchadourian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-23583 Amparo Garcia De Urbina

Chapter 13

#16.00 Hrg re: Motion for relief from stay [UD]

JAMES CHARLTON
vs
DEBTOR

Docket 19

Tentative Ruling:

Grant as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

There is no stay

Pursuant to 11 U.S.C. 362(b)(22) & (l) there is no stay.

Alternatively, there is no stay because the movant obtained a prepetition eviction judgment and writ of possession. See *In re Perl*, 811 F.3d 1120, 1127-28 (9th Cir. 2016) ("We conclude that under California law, entry of judgment and a writ of possession following unlawful detainer proceedings extinguishes all other legal and equitable possessory interests in the real property at issue.").

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... **Amparo Garcia De Urbina**

Chapter 13

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Amparo Garcia De Urbina

Chapter 13

Party Information

Debtor(s):

Amparo Garcia De Urbina

Represented By
Lionel E Giron

Movant(s):

James Charlton

Represented By
James W Charlton

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-24414 Rachel Ann Ramos

Chapter 13

#17.00 Hrg re: Motion for relief from stay [UD]

STANLEY A. SIROTT, Trustee for the
Stanley A. Sirott Trust
vs
DEBTOR

Docket 15

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Rachel Ann Ramos

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rachel Ann Ramos

Represented By
Daniel King

Movant(s):

Stanley A. Sirott, Trustee for the

Represented By
Barry L O'Connor

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:19-10137 Vazrik Allahverdi

Chapter 13

#18.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 9

Tentative Ruling:

Revised Tentative Ruling for 2/5/19:

Grant, subject to the following conditions, including a separate adequate protection order ("APO") with a relatively brief period to sell the subejct property and "*in rem*" relief, all as set forth below. Appearances required.

Key documents reviewed (other than the motion papers): opposition (dkt. 15), reply (dkt. 20), chapter 13 plan (dkt. 13), bankruptcy Schedules D, I&J (dkt. 12 at PDF pp. 13 & 31-34); and prior case (Case No. 18-20940), chapter 13 plan (*id.*, dkt. 12), objections thereto (*id.*, dkt. 19, 22, 24, 25, 29), bankruptcy Schedules D, I&J (*id.*, dkt. 10 at PDF pp.13 & 27-28 *and* dkt. 15), and this Court's own records of the hearings in the prior case.

Note: Some of the documents listed above may be duplicative (because the same document may be contained both in exhibits and as original documents), but the point is to highlight key documents. In addition, the inclusion of the most important documents should be construed to mean that other documents were not reviewed.

(1) Analysis

(a) Legal standards

There is a presumption that this bankruptcy case was not filed in good faith, due to (i) Debtor's failure to "perform the terms of a plan confirmed by the court" in their prior bankruptcy and (ii) Debtor's failure to demonstrate that there has been a "substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case" (as noted below, Debtor alleges a change in his contributor, but evidence is lacking). 11 U.S.C. 362(c)(3)(C)(i)(II)(cc) & (III). Debtor has the burden to rebut that presumption by "clear and convincing" evidence. 11 U.S.C. 362(c)(3)(C).

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Vazrik Allahverdi

Chapter 13

In determining whether a bankruptcy case has been filed in good faith, courts must consider the totality of the circumstances. See *In re Montoya*, 342 B.R. 312, 317 (Bankr. S.D. Cal. 2006). The factors to be considered include (but are not limited to): "1) whether debtor misrepresented facts in the petition or the plan, unfairly manipulated the Code or otherwise filed the current chapter 13 plan or petition in an inequitable manner; 2) debtor's history of filings and dismissals; 3) whether debtor only intended to defeat state court litigation; and 4) whether egregious behavior is present." *Montoya*, 342 B.R. at 317 (citing *In re Leavitt*, 171 F.3d 1219, 1224 (9th Cir. 1999)).

The tentative ruling is that in interpreting and applying section 362(c)(3) (continuation of automatic stay) this Court should be informed by the interpretation and application of section 362(d) (relief from automatic stay). For example, the tentative ruling is that proceedings under both subsections (c) and (d) are intended to be "summary proceedings" rather a full trial. Among other things, a full trial at the inception of the case would defeat the purpose of the "breathing spell" that is one of the purposes of the automatic stay, and that would harm both debtors and creditors. Cf. *In re Veal*, 450 B.R. 897, 914 (9th Cir. BAP 2011) (citing authority that hearings under section 362(d) are "summary" proceedings); *In re Robbins*, 310 B.R. 626, 631 (9th Cir. BAP 2004) ("relief from stay hearings are limited in scope ... do not involve a full adjudication on the merits ..." and adjudicate claims only to the extent of determining "whether a creditor has a colorable claim") (citations omitted).

Similarly, because of the expedited time frame under section 362(c)(3), the limited issues to be decided, and the fact that the merits of any underlying disputes are not fully adjudicated, the tentative ruling is that any determination of "good faith" for purposes of section 362(c)(3) has very limited if any claim or issue preclusive effect, and that any party opposing the good faith determination need only show a "colorable" basis to establish that it has standing and is the real party in interest. Cf. *Veal*, 450 B.R. 897, 914-15 ("stay relief litigation has very limited claim preclusion effect" and "[g]iven the limited nature of the relief obtained through a motion for relief from the stay, the expedited hearing schedule § 362(e) provides, and because final adjudication of the parties' rights and liabilities is yet to occur, ... a party seeking stay relief need only establish that it has a colorable claim to enforce a right against property of the estate.") (citations omitted); and see generally *In re M Capital Corp.*, 290 B.R. 743 (9th Cir. BAP 2003) (limitations on "good faith" findings when all facts and circumstances

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Chapter 13

might not be established, in analogous context of 11 U.S.C. 363(m)).

To be clear, the tests under subsections (c) and (d) are not the same. For example, if a debtor proposes a plausible attempt to provide adequate protection, or a plausible outline of a possible financial reorganization, that may go a long way toward establishing "good faith" under subsection (c), even if the proposed protection of the creditor's interest turns out not to be "adequate" (11 U.S.C. 362(d)(1)) or if the debtor ultimately is unable to show that property is necessary to an "effective" reorganization (section 362(d)(2)(B)). The point is only that there are parallels in the analysis under subsections (c) and (d) of section 362, and the tentative ruling is that each informs the other.

(b) Evidence for and against good faith

On the one hand, Debtor has not provided sufficient evidence to support his projected monthly income: (i) he has failed to file any contribution declaration from the latest alleged contributor (his uncle, who allegedly will be more reliable than the contributor in Debtor's last case), and (ii) he has failed to support the alleged monthly income from his business, contrary to the instructions in line 8a of bankruptcy Schedule I to "[a]ttach a statement for each ... business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." Dkt. 12 at PDF p.31.

In addition, Debtor's latest evidence of any substantial equity cushion is thin: he relies on valuations listed on websites, which have not been shown to be admissible evidence. He also admits that those valuations are in excess of his own prior valuations (in his bankruptcy schedules). Based on those lower valuations (as to which Debtor is competent to opine, as the owner of the property), it appears that there is only a small equity cushion: approximately 6.5%.

On the other hand, some of the most important issues in assessing good faith are (i) whether Debtor's proposed prosecution of this case appears to be a genuine attempt to propose a feasible plan within a reasonable time (to pay his creditors the non-exempt value of his assets and disposable income), and (ii) whether Debtor meanwhile can provide adequate protection against diminution of whatever ends up being the allowed amount of the creditor's secured claim. The tentative ruling is that Debtor has adequately addressed these issues and presented clear and convincing evidence of good faith by the combination of (w) his proposal to sell the property within a relatively short time (perhaps no longer

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than what it would take the creditor himself to foreclose and sell the property), (x) the equity cushion (which is too thin to be sufficient on its own, but can be combined with payments in cash to provide adequate protection against a diminution in the value of the interests held by the creditor as of the petition date), (y) Debtor's proposal to make payments of \$7500 per month under the Plan (dkt. 13, p.3), a substantial portion of which will be paid to the objecting creditor, and (z) the APO contemplated by this tentative ruling, which will grant the creditor relief from the automatic stay if Debtor fails to live up to these commitments to sell the property within a relatively short time and meanwhile make those \$7,500 per month plan payments. In addition, Debtor has adequately explained the alleged inconsistencies in his prior case (and the objecting creditor itself is in no position to throw stones about inconsistency: it has been all over the map in its on allegations of what interest rate it is asserting).

(2) Tentative relief

The tentative ruling is to issue two orders: (a) an APO prepared and lodged by the creditor (which this Court will modify to add "*in rem*" language) and (b) an order continuing the automatic stay (which this Court will prepare).

(a) APO with "*in rem*" relief

Secured creditor must lodge the APO, which includes the following provisions, and this Court will amend such APO to add the *in rem* language.

Debtor has a relatively short time to sell the subject property: the lesser of (i) 5 months after entry of a confirmation order and (ii) 7 months from the date of this hearing - *i.e.*, by **9/10/19**. Debtor must stay current on plan payments. Should Debtor default on those payments, there will be a 14 day period to cure, but no notice of default is required (because the due date for plan payments is established by the LBR, and an independent third party keeps track of what payments are or are not made - namely the Chapter 13 Trustee). If Debtor has not cured any missed plan payment within that 14 day period, the objecting creditor may file a declaration regarding lack of payment and lodge a proposed order terminating the automatic stay (as to that creditor). Debtor will have a maximum of 3 chances to fall behind and cure. In addition, no future bankruptcy case will affect this property ("*in rem*" relief) (as noted above, this Court will add that provision).

(b) Continuation of automatic stay

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After the hearing date this Court will prepare the section 362(c)(3) order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(i) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (A) may set a hearing on 14 days' notice, (B) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (C) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(ii) Reasons. (A) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (B) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Vazrik Allahverdi

Represented By

Aris Artounians

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CONT... Vazrik Allahverdi

Chapter 13

Movant(s):

Vazrik Allahverdi

Represented By
Aris Artounians

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-10155 Andrew Pantoja Ayala

Chapter 13

#19.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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CONT... Andrew Pantoja Ayala Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrew Pantoja Ayala

Represented By
Axel H Richter

Movant(s):

Andrew Pantoja Ayala

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-10184 Raul Reynoso, Jr.

Chapter 13

#20.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 11

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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CONT... Raul Reynoso, Jr.

Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Raul Reynoso Jr.

Represented By
Stuart R Simone

Movant(s):

Raul Reynoso Jr.

Represented By
Stuart R Simone

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-10400 Philip J Reddick

Chapter 13

#21.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

There is no tentative ruling but the parties should be prepared to address the issues raised in the opposition (dkt. 17) and any additional opposition at the hearing. Appearances required.

If this Court is persuaded to grant relief then, the tentative ruling is (1) to require a stay-current adequate protection order in favor of the objecting creditor, which might or might not include the requested "in rem" provision (the parties should address that issue at the hearing) and (2) to issue a second order granting the 362(c)(3) motion, which, as usual, this Court will prepare an order and which will include the following language:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides

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Philip J Reddick

Chapter 13

the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Philip J Reddick

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:19-10873 Narendra Patel and Nirmaben Patel

Chapter 13

#22.00 Hrg re: Motion for relief from stay [NA]

BRAD KRASNOFF, CHAPTER 7 TRUSTEE
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below, subject to any opposition and reply at the hearing, pursuant to this Court's order shortening time (dkt. 13) and movant's timely notice and proof of service (dkt. 15). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The tentative ruling is to grant the motion for the reasons stated therein and pursuant to the analysis applicable to pursuing litigation notwithstanding the filing of a bankruptcy petition. See *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990); *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009) (following *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984)); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004) (same); *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011) (same).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re*

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CONT... Narendra Patel and Nirmaben Patel
Fjeldsted, 293 B.R. 12 (9th Cir. BAP 2003).

Chapter 13

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) ("in rem" relief can be granted outside of 11 U.S.C. 362(d)(4)):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Narendra Patel

Pro Se

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CONT... Narendra Patel and Nirmaben Patel

Chapter 13

Joint Debtor(s):

Nirmaben Patel

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:14-14611 Joyce Elaine Durden

Chapter 13

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/18/18, 01/08/19

REVERSE MORTGAGE FUNDING LLC
VS
DEBTOR

Docket 59

*** VACATED *** REASON: Notice of Withdrawal of Motion Filed on
01/23/19 (Dkt. 66)

Tentative Ruling:

Party Information

Debtor(s):

Joyce Elaine Durden

Represented By
Thomas B Ure

Movant(s):

Reverse Mortgage Funding, LLC

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:15-25578 Gabriel D. Casillas and Lorena Casillas

Chapter 13

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

PENNYMAC LOAN SERVICES, LLC
VS
DEBTOR

Docket 30

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Gabriel D. Casillas

Represented By
Tina H Trinh

Joint Debtor(s):

Lorena Casillas

Represented By
Tina H Trinh

Movant(s):

PennyMac Loan Services, LLC

Represented By
John D Schlotter
Gilbert R Yabes
Robert P Zahradka
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:16-10324 Erica Ruiz

Chapter 13

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

CANDLEWOOD ESTATES HOMEOWNERS ASSOC
VS
DEBTOR

Docket 65

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Erica Ruiz

Represented By
Matthew D. Resnik

Movant(s):

Candlewood Estates Homeowners

Represented By
Mark D Estle
Erin A Maloney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:17-17141 Catalina Mejorado Vicia

Chapter 13

#26.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/9/18, 11/27/18, 01/08/19

HSBC BANK USA, NATIONAL ASSOC
vs
DEBTOR

Docket 42

Tentative Ruling:

Tentative Ruling for 2/5/19:

Appearances are not required. The tentative ruling, based on Debtor's latest papers (dkt. 61) and the other filed documents in this case, is to issue an adequate protection order ("APO") providing for an 18 month cure period, with a 7 day notice if the debtor falls behind, and up to 3 opportunities to cure after falling behind. The emphasized language in the immediately preceding sentence is based on balancing (1) on the one hand, the added exposure of Wells Fargo Bank, N.A. ("Wells Fargo") due to the fact that the arrears grew substantially during the periods in which Debtor was participating in the LMM program, and (2) on the other hand, the adequate protection offered by (a) Debtor's increased income, (b) Debtor's demonstrated good faith and performance reflected in paying the (admittedly lower) dollar amounts required by the LMM program and by Debtor's progress in this case to date, and (c) the shorter period (7 days) in which Debtor can cure any further defaults (as compared with the more usual 10 or 14 day period).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Catalina Mejorado Vicia

Chapter 13

Tentative Ruling for 1/8/19 (same as for 11/27/18 and 10/9/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 46, 49).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Catalina Mejorado Vicia

Represented By
Stella A Havkin

Movant(s):

HSBC Bank USA, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-10460 Allyson M Theophile

Chapter 13

#27.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/18/18

DEUTSCHE BANK NATIONAL TRUST COMPANY
vs
DEBTOR

Docket 47

Tentative Ruling:

Tentative Ruling for 2/5/19 (same as for 12/18/18)

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order as contemplated by the parties at the 11/27/18 hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the

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Central District of California
Los Angeles
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Tuesday, February 5, 2019

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10:00 AM

CONT... Allyson M Theophile

Chapter 13

automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Allyson M Theophile

Represented By
Matthew D. Resnik

Movant(s):

Deutsche Bank National Trust

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-15895 Maria Esther Martinez

Chapter 13

#28.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 28

Tentative Ruling:

Tentative Ruling for 2/5/19 (same as for 1/8/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maria Esther Martinez

Represented By
Heather J Canning

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Maria Esther Martinez

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-18061 Antonio Gonzales

Chapter 13

#29.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

THE RAMA FUND, LLC
vs
DEBTOR

Docket 23

Tentative Ruling:

Tentative Ruling for 2/5/19:

Appearances required. At the hearing on 1/8/19 this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Antonio Gonzales

Chapter 13

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there is insufficient evidence on the record to convince this Court that Debtor is involved in a scheme to delay, hinder, or defraud the Movant as is required under section 362(d)(4) or the other authorities cited above.

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Antonio Gonzales

Represented By
Stephen S Smyth
William J Smyth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

CONT... Antonio Gonzales

Chapter 13

Movant(s):

The Rama Fund, LLC

Represented By
Martin W. Phillips

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

10:00 AM

2:18-13798 Juan Carlos Mojica and Miriam Loza Barona

Chapter 13

#30.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/29/19

ANGELA SCOTT, TRUSTEE OF THE
JDS CORP PURCHASE MONEY PLAN
VS
DEBTOR

Docket 29

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Juan Carlos Mojica

Represented By
Claudia C Osuna

Joint Debtor(s):

Miriam Loza Barona

Represented By
Claudia C Osuna

Movant(s):

Angela Scott, Trustee of the JDS

Represented By
Benjamin R Levinson ESQ

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

#1.00 NOTE: If the (partial) government shutdown is renewed, many matters will be continued. See the tentative ruling for your individual matter.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#2.00 Status conference re: Removal

Docket 1

Tentative Ruling:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 9) and the other filed documents and records in this adversary proceeding. Based on those documents it appears that both the plaintiff (Poser Investments, Inc., "Poser") and the Debtor-defendants agree that the four properties at issue either were never properly transferred or have been returned to Debtors, and either way they are now part of the bankruptcy estate. The principal remaining issues appear to be:

- (1) Will the other defendants contest that issue?
- (2) Does this Bankruptcy Court require jurisdiction over those other defendants (so as to enter a judgment against them, or at least against the interests that they previously asserted against the four properties), and if such jurisdiction is required, is such jurisdiction established by their appearance in the removed State Court action, or do they consent to *in personam* jurisdiction?
- (3) Does the underlying default judgment obtained by Poser's predecessor in interest against Debtors have a preclusive effect against the Debtor-defendants?
- (4) Does Poser have allowable secured claims against the four properties based on the *lis pendens* and abstracts of judgment?

The parties are directed to address whether there are different principal issues that this Court has not identified. In addition, the parties are directed to address why it would be necessary to have further discovery (in addition to what has already been conducted in the State Court) to address these issues. These appear likely to be resolved based on an application of the law to the undisputed facts, after briefing - e.g., motion(s) for summary judgment.

Meanwhile, it appears appropriate to order mandatory mediation, as set

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CONT... Finnian Osakpamwan Ebuehi
forth below.

Chapter 11

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/10/18. The tentative ruling is not to set any deadlines (e.g., for cutoff of discovery) at this

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

CONT... **Finnian Osakpamwan Ebuehi**

Chapter 11

time, so as to provide time for mediation and/or motion(s) for summary judgment on potentially dispositive issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By

Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Pro Se

Elizabeth Ebuehi

Pro Se

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By

Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

- #3.00** Cont'd status conference re: Complaint to determine dischargeability of debt pursuant to sections 523 and 727 of the United States Bankruptcy Code
fr. 9/4/18,10/9/18, 11/27/18, 01/08/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/5/19:

Continue to 3/5/19 at 11:00 a.m, with a brief status report due by 2/26/19. Although the latest Status Report (adv. dkt. 16) does not address whether the mandatory mediation ordered by this Court has occurred, it appears that more time is needed for mediation. Caution: If the parties do not schedule and attend mediation before the next status conference, this Court may impose sanctions on the recalcitrant party(ies). Appearances are not required on 2/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19. Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

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Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

CONT... **Douglas Lawrance DeCoster**

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be continued? Should this adversary proceeding be dismissed for lack of prosecution?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. Cf. adv. dkt. 7 (belated request for mediation).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 5, 2019

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11:00 AM

CONT... **Douglas Lawrance DeCoster**

Chapter 7

parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By

**United States Bankruptcy Court
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Los Angeles
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Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

Charles J Brash

Plaintiff(s):

Kieran Graner

Represented By
Stephen B Goldberg

Sharon Graner

Represented By
Stephen B Goldberg

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

2:18-12286 Kevin James Quinn

Chapter 7

Adv#: 2:18-01158 Duff v. Quinn

#4.00 Cont'd Status Conference re: Complaint for Objecting to Debtor's Discharge Pursuant to Section 727 of the Bankruptcy Code fr. 08/07/18, 11/27/18

Docket 1

Tentative Ruling:

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). There is no tentative ruling, but the parties should be prepared to address the following revisions to this Court's scheduling order (adv. dkt. 12). See Joint Status Report (adv. dkt. 14) and Notice of Ruling (adv. dkt. 15).

(a) Deadlines: This adversary proceeding has been pending since 5/24/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 2/15/19.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: N/A

Continued status conference: N/A

Lodge Joint Proposed Pre-Trial Order: 2/21/19

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 2/ (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 2/28/19 at 9:00 a.m.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

CONT... Kevin James Quinn

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). There is no tentative ruling, but the parties should be prepared to address a new discovery deadline and other revisions to this Court's scheduling order (adv. dkt. 12). See Joint Status Report (adv. dkt. 14).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/7/18:

Appearances required. The court has reviewed defendant/debtor Quinn's unilateral status report (dkt. 7) and the other filed documents and records in this adversary proceeding. Counsel for the plaintiff/creditor Duff is directed to address why no status report was executed by plaintiff.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 5, 2019

Hearing Room 1545

11:00 AM

CONT...

Kevin James Quinn

Chapter 7

proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 8/24/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/24/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 10/8/18.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 11/27/18.

Joint Status Report: 11/13/18.

Continued status conference: 11/27/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

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Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")
Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kevin James Quinn

Represented By
John F Wolcott

Defendant(s):

Kevin James Quinn

Pro Se

Plaintiff(s):

James T Duff

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:00-00000

Chapter

#1.00 ***NOTE: If the (partial) government shutdown is renewed, many matters will be continued. See the tentative ruling for your individual matter.***

Docket 0

Tentative Ruling:

- NONE LISTED -

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2:19-10153 Christian Rossil

Chapter 11

#2.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Missing status report. Debtor is directed to explain why a Case Status Report was not filed, as required by this Court's order setting this status conference (dkt. 5).

(b) Missing "first day" motions. Debtor has failed to file a budget motion (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov). Debtor also has not filed any other typical "first day" motions (e.g., a utility motion).

(c) Negative, and inadequately supported, monthly income. Debtor appears to have a new job as a real estate broker, but even with that new (alleged) income and supplemental income as a Lyft driver he shows negative cash flow. See Bankruptcy Schedules I & J (dkt. 1 at PDF pp. 43-46).

Debtor appears to have two properties, but does not list any leases or any income from a rental property: why not?

Debtor has stated under penalty of perjury that he does not expect any changes to income or expenses (see bankruptcy Schedule I, item 13, and Schedule J, item 24). How can Debtor hope to reorganize with negative cash flow?

In addition, the (sparse) income that is reported is inadequately supported. Debtor has ignored the instructions on bankruptcy Schedule I, line 8a, to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income."

(c) Dismissal? Should this Court dismiss this case? Does the foregoing constitute a "willful failure to appear in proper prosecution" of this case, and/or a "willful" failure to comply with this Court's order setting this status conference, either of which would support dismissal with a bar under 11 U.S.C. 109(g)(1)?

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(2) Deadlines/dates. This case was filed on 1/8/19. **If** this case is not dismissed, the tentative ruling is to set the following deadlines/dates:

- (a) Bar date: 4/16/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
- (b) Plan/Disclosure Statement*: TBD
- (c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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2:18-22059 JDS Hospitality Group LLC

Chapter 11

#3.00 Hrg re: Motion for order extending the exclusive periods to file its plan of reorganization and secure acceptance of its plan of reorganization pursuant to 11 U.S.C. section 1121(d)

Docket 73

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 4, 2/5/19 at 1:00 p.m.)

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang
David Samuel Shevitz

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2:18-22059 JDS Hospitality Group LLC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/17/18, 10/23/18, 11/27/18, 01/08/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #3, Dec. 2018, dkt. 71; Decl. dkt. 75)

Debtor's recently reported finances are dismal, as noted in the tentative ruling for 1/8/19. It appears that Debtor's occupancy rate is less than half of what was projected (which is itself less than half of available rooms), and that Debtor is failing to pay some franchise fees, utilities, housekeeping expenses, and other items.

Debtor blames outages in its online booking services, but as noted in the limited opposition to extending exclusivity (dkt. 78) filed by First Choice Bank, Debtor's behavior in the face of problems with online booking is puzzling. Why did Debtor not proactively contact the online booking agencies around the time it filed its bankruptcy petition? Why did Debtor not monitor its own finances sufficiently to realize that those agencies had not been paid? Debtor asserts that it was given no advance notice, but that seems highly unusual, so where is evidence of the telephone calls, emails, and letters immediately reacting, objecting to being cut off with no prior notice, and offering immediate payment of any missed bills? This Court takes judicial notice that the booking agencies are large enough to be familiar names, and presumably they have experienced hotel bankruptcies before, so what reasons did they give for their alleged lack of notice and over-reaction? As the bank suggests, the outages in booking were long enough that one would expect Debtor to have made repeated and considerable efforts to resolve the situation, possibly including meetings in person, but there is no evidence of that.

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JDS Hospitality Group LLC

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All of the foregoing suggests "gross mismanagement" of the estate, which is one possible basis to dismiss or convert this case. 11 U.S.C. 1112(b)(4)(B). The facts recited above also appear to constitute a "substantial" loss or diminution of the estate, and calls into question whether there is a "reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(A). In addition, these facts call into question whether Debtor will be able to meet the feasibility test for any proposed plan. 11 U.S.C. 1129(a)(11).

The parties are directed to address whether this case should be dismissed or converted.

(b) Alleged infusions

There have been promises during this case that cash infusions would be made by Debtor's principal, Rhonda Chung. The Status Report (dkt. 79, p.4:8-21) alludes to some, but the precise dollars amounts are generally unclear, as are the dates, and precisely how those dollars been used. The tentative ruling is to set a deadline of 2/12/19 (if this case is not dismissed) for Ms. Chung to file a declaration, with attached evidence, addressing each of these things.

(c) Employment of bankruptcy counsel (dkt. 47, 51, 56, 67, 68, 71)

Have the objections of the United States Trustee (dkt. 51) been resolved?

(c) Motion to Extend Exclusivity Periods (dkt. 73)

Debtor is directed to addressing the issues raised by First Choice Bank's Opposition (dkt. 78).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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CONT... JDS Hospitality Group LLC

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appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Debtor's status report (dkt. 72) attempts to put the best face on a dismal record of recent operations. Should this Court set deadlines to sell the estate's property/business, or impose other performance metrics and establish consequences for failure to satisfy those metrics?

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required.

(1) Current issues

(a) Cash collateral motion (dkt. 4). This Court has reviewed the supplemental declarations of Kenneth Chung and Rhonda Chung (dkt. 38). Those declarations provide that in the event Debtor lacks the funds necessary to

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make the required property tax payments, Rhonda Chung will "personally pay any short fall [o]f the Debtor to pay these taxes or, any portion of those taxes, if any, that has not otherwise been approved by the Court as an authorized Cash Collateral expense." (Rhonda Chung decl, para. 7). Would these funds be a loan or a gift? Is Rhonda Chung financially able to provide such a sum?

(b) Creditor First Choice Bank reporting requests: In its opposition to the cash collatera motion, First Choice Bank requests that Debtor be required to provide additional reporting to insure cash collateral is not misued (dkt. 58). Does Debtor object to any of these recommendations? If so, on what grounds?

(c) Order on cash collateral. Debtor is directed to lodge a proposed final order approving the use of cash collateral, incorporating the terms of the interim order plus any additional requirements as noted above, via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Utility motion. Debtor's status report (dkt. 49) states that this motion will be withdraw, either orally or in writing. Debtor should file a written withdrawal, so that the docket is clear.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/15/19 at 1:00 p.m., with a brief status report due 1/8/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/23/18:
Appearances required.

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(1) Current issues

(a) Cash collateral motion (dkt.4). Subject to any objections at the hearing, the tentative ruling is to authorize the use of cash collateral to a limited extent, on a further interim basis, with a final hearing at the same time as the continued status conference (see below). What specific use of cash is authorized will depend on any supplement filed prior to the hearing and how the debtor and other parties in interest address the following issues: (i) payment of employment taxes and other withholdings, (ii) payment of income taxes, (iii) payment of sales taxes on room rentals, as well as on food, beverages, and other taxable items, and (iv) adequacy of cash flow, both actual and projected.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., with a status report on the local form due 11/13/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/17/18:

Appearances required.

(1) Current issues

(a) Payroll motion (dkt. 5). As noted in this Court's order setting this hearing (dkt. 10), this Court is concerned about whether this is a self-created emergency. In addition, the parties should be prepared to address the jobs of

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CONT... **JDS Hospitality Group LLC**

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each person who is proposed to be paid (dkt. 7, Ex.6), whether any of them are "insiders" (11 U.S.C. 101(31)), and how they will be paid if the checks do not clear and other sources of revenue do not come through. Subject to adequately addressing those issues, and (1) confirming notice per this Court's order shortening time (dkt. 10), (2) addressing this Court's concerns in that order, and (3) any objections at the hearing, the tentative ruling is to grant this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt.4). The tentative ruling is to grant this motion, subject to the caveats set forth in the tentative ruling for calendar no. 2 (10/17/18 at 9:00 a.m.).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., *brief* status report due 11/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang

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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/10/18, 9/18/18, 10/2/18, 11/27/18

Docket 8

***** VACATED *** REASON: This matter is scheduled to be heard on
02/26/19 at 1:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Kevin Tang

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18

Docket 7

Tentative Ruling:

Tentative Ruling for 2/5/18:

Appearances required.

(1) Current issues

(a) Mazakoda, Inc's Objections to Debtor's Claimed Exemptions (dkt. 45)

The tentative ruling is to set the Objection to Exemptions for hearing on 2/26/19 at 1:00 p.m. (to be concurrent with the motion to extend the deadline to object to Debtors' discharge) with the usual deadlines for any opposition and reply.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Appearances required by counsel for the debtor and by the debtor(s) themselves

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(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 2/1/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:18-17941 Patricia Ann Theus

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/14/18, 9/18/18, 10/16/18, 11/27/18, 01/09/18

Docket 7

Tentative Ruling:

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Finances (MOR#6, Dec. 2018, dkt. 72)

Debtor reports having lost money during this month and having missed 3 payments amounting to \$3,510 to FCI Lender (*but see* APO, dkt. 70), 3 payments amounting to \$5,334.18 to Rushmore Loan Mgmt (dkt.72, p.7), and quarterly UST fees of \$325 (*id.*, p.9). Debtor also reports that vehicle insurance was only \$25,000 (does that comply with legal requirements?) and expired on 12/22/18. *Id.*, p.7.

What caused these losses and missed payments? How can Debtor afford to continue in this chapter 11 bankruptcy case?

(b) Plan (dkt. 74), Disclosure Statement (dkt. 73), and order setting hearing re same (dkt. 63)

The tentative ruling is to reschedule the combined hearing on final approval of the Disclosure Statement and confirmation of the Plan from 3/5/19 to 4/2/19 at 1:00 p.m. for two reasons. First, as noted above, Debtor's finances are problematic, and perhaps additional time will enable Debtor to establish a better track record and meet the feasibility requirement of 11 U.S.C. 1129(a)(11).

Second, contrary to the oral ruling at the last status conference, Debtor did not lodge this Court's form of order (posted at www.cacb.uscourts.gov, under Judge Bason's portion of the web site) setting a combined hearing, which would have directed Debtor to provide notice to creditors of the 3/5/19 hearing (and associated deadlines) in sufficient time to comply with the applicable rules. (Debtor's counsel apparently misunderstood and lodged a different order that

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Chapter 11

included the 3/5/19 hearing along with other matters, which this Court signed without recognizing the error, dkt. 63.)

The tentative ruling is to set a deadline of 2/8/19 for Debtor to lodge the correct form of order and file a revised Disclosure Statement and revised Plan that list the revised 4/2/19 hearing date in the caption, and that include a revised form of ballot (dkt. 74, Appendix "1") that states "The Court has provisionally approved" the Disclosure Statement instead of "The Court has approved" (Emphasis added.)

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: see above.

(c) Continued status conference: 4/2/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue as set forth below. Appearances are not required on 1/8/19.

(1) Current issues.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Report (dkt. 67). This Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: file by 1/18/19 (see dkt. 63) using the

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Chapter 11

forms required by Judge Bason and lodge a proposed order authorizing service of those documents and setting a combined hearing on final approval of the disclosure statement and confirmation of the plan (DO NOT SERVE yet, except on the U.S. Trustee - this Court will review the filed documents and then either issue the proposed order or establish other procedures).

(c) Continued status conference: 2/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor's September Monthly Operating Report (dkt. 50), lists a total of \$2,900 for "personal expenses." What are these expenses?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/8/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to

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CONT... Patricia Ann Theus

Chapter 11

dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor still has not lodged interim or final orders approving the use of cash collateral, or a final order approving her budget. Why not?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 42) and the other filed documents in this case.

(a) Motion of U.S. Trustee ("UST") to dismiss or convert (dkt. 21). The debtor claims to have come into compliance (dkt. 41). Does the UST have any outstanding compliance issues?

(b) Budget motion (dkt. 15) and supplemental declaration of non-debtor spouse Jose M. Juarez (dkt. 37). Grant on a final basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Cash collateral motion (dkt. 14, 16). The adopted tentative ruling for the 8/14/18 hearing (reproduced at calendar no. 7, 9/18/18 at 1:00 p.m.) directed the debtor to file an order granting the motion on an interim basis. No such order has been lodged. Why not? Subject to a satisfactory answer, the tentative ruling is to grant the motion on a final basis, on the same terms as it was granted on an interim basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

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Chapter 11

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 17) and the other filed documents in this case.

(a) Budget motion (dkt. 15). Grant on an interim basis, with a final hearing concurrent with the continued status conference (see below), and a deadline of 8/21/18 to file declaration(s) regarding the income of the debtor's spouse (see below). *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Debtor's spouse's income. The debtor's bankruptcy Schedule I reports that the debtor's spouse is a self-employed construction contractor, but that the spouse only earns \$1,500/mo. in net income. Dkt. 1, at PDF p.32, line 8a. This Court takes judicial notice that there is considerable construction activity in this geographic area. Why is that income not higher?

In addition, there is no attached statement showing gross income, expenses, and the calculation of net income. That is contrary to the instructions for line 8a, and to this Court's order that for reporting purposes any spouse is to be treated as equivalent to the debtor (dkt. 6, para.3).

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patricia Ann Theus

Represented By

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Patricia Ann Theus

Onyinye N Anyama

Chapter 11

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2:18-17217 Benjamin Saeedian

Chapter 11

#8.00 Cont'd hrg re: Application By Debtor And Debtor In Possession to employ Law Offices Of Raymond H. Aver, A Professional Corporation, As General Insolvency Counsel" fr. 11/27/18, 01/08/19

Docket 26

Tentative Ruling:

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference (calendar no. 9, 2/5/19 at 1:00 p.m.)

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the status conference (calendar no. 6, 1/8/19 at 1:00 p.m.)

Tentative Ruling for 11/27/18:

Please see the tentative ruling for the status conference (calendar no. 4, 11/27/18 at 1:00 p.m.)

Party Information

Debtor(s):

Benjamin Saeedian

Represented By
Raymond H. Aver

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2:18-17217 Benjamin Saeedian

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 07/17/18, 7/20/18, 9/18/18, 10/16/18, 11/27/18,
01/08/19

Docket 9

Tentative Ruling:

Tentative Ruling for 2/5/19:

Continue as set forth below. Appearances are not required on 2/5/19.

(1) Current issues

(a) Application to employ bankruptcy counsel (dkt. 26)

This Court has reviewed the supplemental declarations (dkt. 62, 63, 64), and is satisfied that this Court's concerns from the 1/8/19 hearing have been adequately addressed. The tentative ruling is to approve the Application to employ the law offices of Raymond H. Aver (dkt. 26).

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Finances and exit strategy

Debtor's latest monthly operating report (dkt. 56, MOR#7 for Dec. 2018) appears to show that Debtor is barely keeping his head above water. At the continued status conference this Court anticipates addressing whether Debtor can propose a viable exit strategy from this bankruptcy case, and when to set a deadline to file (not serve) an initial draft Plan and draft Disclosure Statement.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue as set forth below, so that Debtor's proposed counsel can further supplement the employment application. Appearances are not required on 1/8/19.

(1) Current issues: professionals

Debtor's latest declaration in support of the application to employ the law offices of Raymond H. Aver (dkt. 55) states that Debtor's friend, Mr. Michael Baradarian (the "Funder"), has agreed to pay the retainer and he "may gift all or a portion of the postpetition retainer." Dkt. 55, p.2:13-14 (emphasis added). See *also* dkt. 26, 32, 49, 55. That is inadequate.

What would the non-gift portion be? A loan (unsecured, presumably)? An investment (some sort of arrangement akin to an equity infusion into a business)? When and how would those things be decided?

The lack of complete disclosure by Debtor and proposed counsel only cause this Court to have additional questions. This Court's concerns, and tentative ruling about what needs to be disclosed, are as follows.

A third party who funds a retainer for the debtor generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, proposed counsel should be prepared to address the following.

(a) Connections. What are all of the connections between the Funder, on the one hand, and the debtor's proposed counsel or any of the other types of persons listed in FRBP 2014, on the other hand -- *e.g.*, have there been any

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economic or business or personal connections between the Funder and proposed counsel, or the debtor, or any creditor or other party in interest, or their respective attorneys or accountants?

(b) Terms. What are the precise agreements, understandings or expectations regarding the funds -- e.g., are the funds a loan, a gift, an investment, or something else?

(c) Informed consent of funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? Who provided such advice: independent counsel, or the debtor's proposed counsel? Has the Funder given informed consent? Are those things in writing?

(d) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing?

(e) Other considerations. Has proposed counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

(f) Deadline. The tentative ruling is to set a deadline of 1/22/19 for Debtor to file declarations by (i) Debtor, (ii) the Funder, and (iii) proposed counsel addressing all of the foregoing issues.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

(1) Current issues.

(a) Application to employ Raymond H. Aver (dkt. 26) - The parties should be prepared to discuss whether proposed counsel is disinterested given that they are general counsel to Rabenu Enterprises, LLC (see U.S. Trustee's opposition, dkt. 32, and Debtor's reply, dkt. 47).

(b) Source of funds re retainer agreement - In their opposition, the U.S. Trustee raised the question of what the source of the funds for Debtor's retainer agreement is (dkt. 32). Debtor's reply provides that the source of the funds are "Saeedian's and his spouse's earnings and/or contribution from third parties." (dkt. 47, PDF p. 11). Who is this third party? Would the funds be a gift or a loan?

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/8/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

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Continue as set forth below. Appearances are not required on 10/16/18.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 39) and has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

Tentative Ruling for 9/18/18:

Continue as set forth below. Appearances are not required on 9/18/18.

(1) Current issues. This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed the docket, the debtor's amended schedules (dkt. 33), and monthly operating report no. 1 (dkt. 20, for mo. ending 6/30/18). What is the \$660 "miscellaneous expense" reported on p.5? Why was that not explained in the MOR?

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/18/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 7/17/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 17) and the other filed documents in this case.

(a) Secured claims. Why does the debtor's bankruptcy Schedule D (dkt.

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18 at PDF p.11) list \$0 in secured claims (not even a disputed claim?) even though the status report (dkt. 17) states that the case was filed to stop foreclosure? How can creditor and this Court rely on the accuracy of the bankruptcy schedules in view of such inconsistency?

(b) Income. The debtor's bankruptcy Schedule I (dkt. 18 at PDF pp.19-20) lists a total of \$100/mo. in income taxes, medicare and social security. It lists \$0 for net income from operating a business (line 8a) despite listing multiple businesses with alleged income: "YB Design, Inc.," "Management of Rabenu Enterprises, LLC," "Babysitting services," and "Cosmetic Sales." It fails to comply with the instructions in line 8a to "Attach a statement for each ... business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." The debtor appears to be ignoring the requirements to provide disclosure as to his own income and expenses and, under this Court's order (dkt. 9, para.3), to provide equal disclosure with respect to his spouse and their businesses. How can creditors and this Court rely on the accuracy of the bankruptcy schedules and future compliance with orders of this Court in view of such non-compliance?

(c) Deadline for compliance. The tentative ruling is to set a **deadline of 7/31/18** for the debtor to file amended bankruptcy schedules correcting not only the foregoing deficiencies that this Court has identified but also any other deficiencies that the debtor and his spouse and the debtor's counsel identify after carefully reviewing the documents that the debtor has filed. If in future this Court discovers other non-compliance with the debtor's obligations to provide accurate disclosures and to comply with this Court's orders, this Court may order the dismissal or conversion of this bankruptcy case, or other remedies.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 8/14/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

This court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Benjamin Saeedian

Represented By
Raymond H. Aver

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2:00-00000

Chapter

#1.00 ***NOTE: If the (partial) government shutdown is renewed, many matters will be continued. See the tentative ruling for your individual matter.***

Docket 0

Tentative Ruling:

- NONE LISTED -

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2:17-19925 Willie John Riley

Chapter 7

#2.00 Hrg re: Chapter 7 Trustee's Motion For Order: (1) Authorizing Sale Of 3604 Cobbert Drive, San Jose, California 91548 [APN 654-51-069], Free And Clear Of Liens, Claims, And Interests; (2) Approving Proposed Overbid Procedures; (3) Determining That Buyer Is A Good Faith Purchaser; (4) Authorizing Payment Of Costs Of Sale; And (5) Waiving The Fourteen(14) Day Stay Prescribed By Rule 6004(h) Of The Federal Rules Of Bankruptcy Procedure

Docket 123

Tentative Ruling:

Grant, subject to (1) any overbids, (2) correction per the Mackin Trust's request (dkt. 133), and (3) a revised "good faith" declaration from the stalking horse bidder (cf. dkt. 123, p.27) to address the issues noted below. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Notice of Federal Government's Lapse of Appropriations (dkt. 127); The Mackin Trust's Requested Correction (dkt. 133).

Analysis:

(1) Good faith declaration

(a) Docusign

The tentative ruling is to require a scanned holographic signature per LBR 9011-1, rather than accepting a docusign signature, because the laws and rules applicable to the latter have not been briefed.

(b) Posted Procedures

The posted Procedures of Judge Bason include the following:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the

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CONT...

Willie John Riley

Chapter 7

debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. See generally *In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

The tentative ruling is to require the stalking horse bidder, or any winning overbidder, to file and serve on the Trustee's counsel a declaration complying with the above-quoted procedures (except for the references to the debtor's "officers" and "directors").

(2) IRS' liens

Counsel for the United States of America has consented to a sale free and clear of the IRS' liens in exchange for a payment of \$50,000 paid through escrow on the sale transaction closing date. See dkt. 123 at PDF 12, Trustee's declaration. In addition, a delay may cause the proposed sale to fall through or chill the bidding. In addition, this Court takes judicial notice that the federal government has now reopened, so if the IRS wishes to appear and be heard it may do so. Therefore, despite the Notice of Federal Government's Lapse of Appropriations, the tentative ruling is not to continue this hearing and instead to grant the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Willie John Riley

Chapter 7

Debtor(s):

Willie John Riley

Represented By
Levi Reuben Uku

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Jason Balitzer
Steven Werth

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2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#3.00 Cont'd Status Conference re: Chapter 7 Case
fr. 9/4/18,10/9/18, 11/6/18, 12/11/18, 01/08/19

Docket 1

***** VACATED *** REASON: Continued to 2/26/19 at 2:00 p.m. [dkt. 102]**

Tentative Ruling:

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Stephen L Burton

Trustee(s):

Howard M Ehrenberg, Ch 7 Trustee

Represented By
Asa S Hami

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2:18-23799 Jonathan Ahron

Chapter 13

#4.00 **[CASE DISMISSED ON 1/28/19]**

Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

JP MORGAN CHASE BANK, NA.
vs
DEBTOR

Docket 39

Tentative Ruling:

Tentative Ruling for 2/5/19:

The tentative ruling is that this motion for relief from the automatic stay is moot because (1) this Court previously granted "*in rem*" relief (dkt. 52) (preventing any future bankruptcy case from affecting the subject property) and continued this hearing only on the issue of whether to terminate the stay in this case; and (2) the stay in this case has terminated by virtue of dismissal (dkt. 64). Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Grant both motions in part - the motion for relief from the automatic stay regarding the receiver/custodian, and the motion for relief from the automatic stay to proceed with foreclosure and other remedies (dkt. 39 & 41) - and deny them in part, all as set forth below. Appearances required.

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Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Summary

The tentative ruling is to excuse turnover by the receiver under 11 U.S.C. 543, and grant relief under 11 U.S.C. 362(d)(1)&(4) from the automatic stay (a) for the receiver to continue to manage the property and (b) for the judicial and nonjudicial foreclosure processes to go forward, but (c) with no foreclosure sale for approximately 60 days, to provide Debtor with an opportunity to sell or refinance the property. In addition, the tentative ruling is to make the foregoing relief effective notwithstanding any future bankruptcy case by Debtor or anyone else ("*in rem*" relief).

(2) Preliminary issues that this Court must raise

Debtor's response to one of the motions (dkt.46) argues that he is not over the debt limits in 11 U.S.C. 109(e) because the subject real property and debt are not his, but instead are those of the LLC of which he is a member. That appears to be so, which adequately responds to one of Movant's issues, but the fact that the real property and debt do not belong to Debtor implicates jurisdictional issues and other matters that this Court must consider *sua sponte*.

This Court must consider the possibility that if the subject real property and associated debt are those of a third party (the LLC), rather than the property and debt of Debtor and this bankruptcy estate, then arguably (i) the automatic stay does not apply at all (which may have mootness or jurisdictional implications for Movant's request for relief from the stay), or (ii) the real party in interest is the LLC and not Debtor (which may have implications about whether this is an appropriate proceeding in which to grant relief against the LLC). But, having raised these concerns, this Court's tentative ruling is to dismiss them.

Debtor and the LLC cannot have it both ways: (a) they have invoked the automatic stay to stop foreclosure sales; (b) there are substantial arguments that the stay does apply in this case (e.g., under 11 U.S.C. 102(2) and 362(a)(1), (3)&(6)), because any foreclosure would have a very substantial effect on Debtor's own property (his interest in the LLC); (c) there appears to be adequate notice to all parties in interest because Movant has served the motions on Debtor, the LLC, and the other member of the LLC who executed the loan documents;

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and (d) it appears appropriate to address whether to grant relief from the automatic stay (to the extent it applies in this case) and whether to grant "*in rem*" relief (to prevent the automatic stay from applying in any future bankruptcy cases by the LLC, Debtor, or any other person). The tentative ruling is that Debtor, the LLC, and its other member who executed the loan documents are all estopped to argue otherwise - in other words, it is appropriate to reach the merits.

(3) Excusing turnover

The receiver has been in place since 9/11/18, and was put in place pursuant to Debtor's stipulation in the State Court. In addition, this Bankruptcy Court takes judicial notice based on numerous prior cases that, once a receiver has had time to take possession of property, the removal of that receiver generally is highly disruptive to tenants, vendors, and others, not to mention expensive, and risky in terms of preserving property value. In addition, Movant has presented evidence of housing violations, which Debtor has not rebutted. For all of these reasons, it appears appropriate to excuse the receiver from turnover under 11 U.S.C. 543.

(4) Cause for relief under 11 U.S.C. 362(d)(1)&(4)

As just described, it appears that Debtor has had several "bites at the apple," and that in the past he has caused or tolerated inadequate housing conditions. Movant and the receiver now have to either remedy those conditions (and there is no evidence of excess funds that could be used for that purpose, absent advances from Movant), or else run the risk of subjecting tenants to housing that violates applicable laws and regulations, or other adverse consequences. The longer the delay in disposition of the real property, the greater these risks will be.

All of the foregoing is "cause" under 11 U.S.C. 362(d)(1) to modify the stay so as to provide only a limited time in which Debtor can attempt to realize whatever net value the property allegedly has, for the benefit of Debtor and other creditors. There is also evidence of an intent to "hinder" or "delay" Movant, within the meaning of 11 U.S.C. 362(d)(4): namely, the fact that the nonbankruptcy action was brought and that Debtor stipulated to a receiver in that action but then filed his prior bankruptcy case on the eve of foreclosure, and now this current bankruptcy case in which Debtor admittedly seeks to fend off foreclosure for an additional time to sell or refinance.

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(5) Relief

Based on the forgoing the tentative ruling is to grant the following relief:

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4); provided that no foreclosure sale shall take place **prior to 3/11/19**.

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

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Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jonathan Ahron

Represented By
Scott Kosner

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By
Matthew S Henderson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-23799 Jonathan Ahron

Chapter 13

#5.00 ***[CASE DISMISSED ON 1/28/19]***

Cont'd hrg re: Motion for relief from stay [CUST]
fr. 01/08/19

JP MORGAN CHASE BANK, NA
vs
DEBTOR

Docket 41

Tentative Ruling:

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Although this case has been dismissed, it is still necessary for completeness of the record for Movant to comply with this Court's oral directions at the last hearing, reiterated in this Court's written order (dkt. 52, Ex.1, p.5, last sentence, in boldface and double-underlined). Specifically, Movant is directed no later than 2/8/19 to lodge a proposed order granting the Motion to Excuse the Custodian From Turnover (dkt. 41).

To assure that this is done, the tentative ruling is to continue this hearing to 2/26/19 at 2:00 p.m. (Presumably, Movant will comply with this Court's directions and that hearing will go off calendar; but if not then that hearing can be used to address what remedies are appropriate.)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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Tentative Ruling for 1/8/19:

Please see the tentative ruling for calendar no. 18 (1/8/19 at 10:00 a.m.).

Party Information

Debtor(s):

Jonathan Ahron

Represented By
Scott Kosner

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By
Matthew S Henderson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#6.00 Hrg re: Motion For Order (1) Authorizing Sale Of Real Property Free And Clear Of All Liens, Claims And Encumbrances Pursuant To 11 U.S.C. §§ 363(b) And (f); (2) Approving Overbid Procedures; (3) Approving Buyer, Successful Bidder And Backup Bidder As Good-Faith Purchaser Pursuant To 11 U.S.C. § 363(m); And (4) Authorizing Payment Of Undisputed Liens And Other Ordinary Costs Of Sale

Docket 391

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#7.00 Cont'd hrg re: Motion for Relief from Stay [RP]
(2720 Homestead Rd, Suite 200, Park City UT 84098)
fr. 12/12/17, 02/13/18, 5/22/18, 08/07/18, 10/2/18, 10/26/18,
12/6/18

WELLS FARGO BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 144

Tentative Ruling:

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 8/7/18 (same as for 5/22/18, 2/13/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the trustee should be prepared to address the status of the trustee's investigation into the alleged pre-petition transfer.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/12/17:

Continue to 2/13/17 at 10:00 a.m. Appearances are not required on 12/12/17.

(1) Reasons for continuance

(a) Insufficient Service

The proof of service filed in support of the motion does not reflect service on the debtor to the attention of the appropriate person(s), in accordance with Rules 4001 and 7004(b)(3) (incorporated by Rule 9014(b), Fed. R. Bankr. P.), and Local Bankruptcy Rule 4001-1(c)(1)(C)(i). Under Judge Bason's posted procedures (at www.cacb.uscourts.gov), he generally does not *sua sponte* require that specific individuals be named - service can be "Attn: Officer or Managing/General Agent" or a similar phrase - but in the circumstances of this case, in which there are disputes regarding who is or is not authorized to represent the debtor, Judge Bason will direct that service be (i) on the debtor at its address of record "Attn: Philip Layfield, Officer of Record" and also, in a separate envelope, (ii) on the debtor at its address of record "Attn: Any Officer Other Than Philip Layfield."

(b) Chapter 11 Trustee's Request for Extension

This court has reviewed the chapter 11 trustee's reponse (dkt. 152) to the motion, and movant's reply (dkt. 159). Given that this case is an involuntary case and the trustee has not had the benefit of any bankruptcy schedules, any statement of financial affairs, or access to the debtor's principals, this court is not persuaded by movant's argument that the trustee has already had sufficient time to investigate the alleged pre-petition transfer. In addition, the trustee has provided adequate evidence that the equity cushion and the relatively short delay provide adequate protection.

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Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Jennifer Witherell Crastz

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#8.00 Cont'd hrg re: Motion for Relief from Stay [RP]
(2720 Homestead Rd, Suites 210 & 220, Park City UT 84098)
fr. 12/12/17, 02/13/18, 5/22/18, 08/07/18, 10/2/18,
10/26/18

WELLS FARGO BANK, NATIONAL ASSOC
vs
DEBTOR

fr. 12/6/18

Docket 143

Tentative Ruling:

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 8/7/18:

Please see the tentative ruling for calendar no. 37, on the 10:00 a.m. calendar, 8/7/18.

Tentative Ruling for 5/22/18:

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Please see the tentative ruling for calendar no. 30, on the 10:00 a.m. calendar, 5/22/18.

Tentative Ruling for 2/13/18:

Please see the tentative ruling for calendar no. 26, on the 10:00 a.m. calendar, 2/13/18.

Tentative Ruling for 12/12/17:

Continue to 2/13/17 at 10:00 a.m. Appearances are not required on 12/12/17.

(Same reasons as for calendar no. 10, on the 10:00 a.m. calendar, 12/12/17.)

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Jennifer Witherell Crastz

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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Chapter 11

#9.00 Cont'd status conference
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18

Docket 323

Tentative Ruling:

Tentative Ruling for 2/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(b) Lay-Invol 341(a) Meeting

The parties should be prepared to address appropriate remedies for Mr. Layfield's failure to appear at the meeting of creditors (11 U.S.C. 341(a)) scheduled for 1/22/19.

(c) Christine Layfield Delaware bankruptcy case

The parties should be prepared to address any effects of the chapter 7 bankruptcy case filed by Mr. Layfield's spouse, as reported by the L&B Chapter 11 Trustee (L&B dkt. 401, p.7). To what extent does the trustee of that bankruptcy estate assert interests in these related cases? Are there discussions regarding any stipulations for relief from the automatic stay, coordination regarding venue of any proceedings, and/or coordinating other matters as between the estates?

(2) Matters on Calendar Today

(a) Motion to Sell 2720 Homestead Rd, Unit 200, Park City Utah (L&B dkt. 391)

The parties should be prepared to address the issues raised by Wells Fargo (L&B dkt. 396) and Toll Creek Owners Association, Inc. (L&B dkt. 397), as

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Chapter 11

well as Movant's reply (L&B dkt. 402). In addition, if the objections are resolved or overruled and the sale goes forward (subject to overbids), the tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

(b) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address the issues raised in Wells Fargo's status report (L&B dkt. 399) regarding all of the condominium units. The tentative ruling is to continue the Relief from Stay Motions to 3/5/19 at 2:00 p.m., with a deadline of 2/12/19 for the Trustee to provide Wells Fargo an updated written report describing the listing price(s), showings, and offers for Units 210 and 220. The tentative ruling is also to extend the previously entered orders for filing under seal (L&B dkt. 387, 388) to any brief the parties wish to file in connection with the continued hearing.

(c) Wellgen Standard v. Maximum Legal (17-1503) Status Conference

The parties should be prepared to address the status of the purported settlement of this adversary proceeding.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

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- (b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.
- (c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 12/18/18:

Appearances required

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases
This hearing includes Status Conferences in each of the three related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."), (c) *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA").

(2) Matters on Calendar Today

(a) Chapter 7 Trustee's Motion for Order (1) Approving Stipulation Relating to Disbursement of Funds, and (2) Closing Case (Max-CA, dkt. 137)

The tentative ruling is to grant this motion, but the parties should be prepared to address the effect on the pending adversary proceeding entitled *Wellgen Standard LLC v. Maximum Legal (California), LLP et al.* (L&B Case, No. 2:17-bk-19548-NB; Adv. No. 2:17-ap-01503-NB) (the "Wellgen Adv.P.").

On a related matter, as part of case management in the L&B case, the tentative ruling is to continue the Status Conference currently set in the Wellgen Adv.P. from 1/15/19 at 11:00 a.m. to the same date and time as the Status Conferences in the related bankruptcy cases, set forth below.

(b) Final Fee Application of SulmeyerKupetz (Max-CA, dkt. 131)

Grant: \$12,693.52 in fees and \$52.48 expenses.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17

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and converted to chapter 11 on 8/11/17.

- (a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)
- (b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.
- (c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 2/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), with a *brief* status report by the trustees due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

**Tentative Rulings for 12/6/18 and prior:
[OMITTED FOR BREVITY, AND BECAUSE THEY HAVE BEEN LARGERLY
MEMORIALIZED. See, e.g., L&B dkt. 367, 377]**

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
Los Angeles
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Chapter 11

Adv#: 2:17-01503 Wellgen Standard LLC v. Maximum Legal (California), LLP et al

#10.00 Cont'd Status Conference re: Complaint for (1) Declaratory Relief; and (2) Turnover of Property of the Estate Pursuant to 11 U.S.C. § 542 fr. 12/19/17, 03/06/18, 3/20/18, 5/1/18, 6/26/18, 07/17/18, 11/27/18, 1/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the status of the purported settlement as indicated in the Request for Status Conference (adv. dkt. 68), as well as on the record at the hearing in the bankruptcy case on 10/24/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

Appearances Required. The parties should be prepared to discuss when this Court should set relevant discovery dates and other deadlines.

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CONT... Layfield & Barrett, APC

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

This court anticipates posting a tentative ruling at a later time.

[**NOTE:** no tentative ruling was posted; instead this Court issued its memorandum decision denying Wellgen's motion to dismiss (adv. dkt. 50).]

Tentative Ruling for 5/1/18:

Appearances required.

(1) Motion to Dismiss (dkt. 24). At the hearing on 3/20/18, this Court delivered its oral tentative ruling to deny the motion but, due to the Court's heavy calendar that day, could not afford the parties an opportunity to present oral arguments in response. This Court lifted the stay of discovery and continued the matter to this date to allow the parties an opportunity to attempt a consensual resolution, or present arguments for or against the tentative ruling.

(2) Deadlines. *If* this Court sticks with its tentative ruling not to dismiss the complaint, the parties should be prepared to discuss relevant discovery dates and other deadlines.

This adversary proceeding has been pending since 10/17/17.

Discovery cutoff (for *completion* of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 6/12/18

Continued status conference: 6/26/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

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Layfield & Barrett, APC

Chapter 11

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")
Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 3/20/18:
Appearances required.**

(1) Motion to Dismiss. At the hearing on 3/6/18, this court continued the matter for the parties to review relevant authority on the "unfinished business doctrine" and consider the implications of that authority on this proceeding. This Court has reviewed the parties' status reports (dkt. 39, 41), which effectively are briefs, and the parties are directed to address (a) whether further briefing or discovery is needed, either as to the Teitelbaum Case or any other matter, (b) whether the range of possible outcomes could include any in which the underlying clients (or any other parties) could be prejudiced (e.g., if any party presently before this Court is denied a recovery in this proceeding, would that party have any ability to seek recovery from the underlying client on a different theory?) and, if so, whether such persons need to be joined in this proceeding, and (c) whether to bifurcate the Teitelbaum Case from other matters and render a decision as to the former after oral argument and/or set deadlines for discovery or other procedures (see, e.g., the list of deadlines set forth in paragraph "(3)" of this Court's tentative ruling for 12/19/17, reproduced below).

(2) Continued hearing/status conference: 5/29/18 at 1:00 p.m. Brief status report due 5/15/18.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required. This Court has reviewed the parties' status reports (adv. dkt. 28, 29) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority. The issues raised in paragraph "(1)" of this Court's tentative ruling for 12/19/17 (reproduced below) appear to have been addressed (see adv. dkt. 28, 29) or waived/forfeited by parties who have not expressly addressed them.

(2) Mediation. The parties are directed to report on the status of the 2/27/18 mediation. If the mediation was not successful, the parties should be prepared to argue the merits of the motion to dismiss filed by Advocate Capital, Inc. (adv. dkt. 24, the "MTD") and related papers (e.g., adv. dkt. 30, 34). To the extent that the foregoing does not resolve the parties' litigation, this Court anticipates setting deadlines for discovery and possibly other matters (see paragraph "(3)" of this Court's tentative ruling for 12/19/17, reproduced below).

(3) Continued status conference: 5/29/18 at 1:00 p.m. *Brief* status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Layfield & Barrett, APC

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Tentative Ruling for 12/19/17:

Appearances required. The court has reviewed the parties' joint status report (dkt. 9) and the other filed documents and records in this adversary proceeding. The tentative ruling is to excuse the parties from any Rule 26 compliance at this time (Fed. R. Civ. P. 26, incorporated by Fed. R. Bankr. P. 7026), as requested by certain of the parties. In addition, the tentative ruling is as follows (the parties need not repeat their responses in the status report unless there is some change to those responses).

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below?

The tentative ruling is to set a deadline of 1/5/18 for the parties to agree on a mediator whose schedule is consistent with the needs of this matter and lodge mediation order(s) (if the parties are unable to agree on a single order they may lodge competing orders and Judge Bason will decide among them or issue his own, although it should be possible for the parties to agree on a mediator).

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CONT... Layfield & Barrett, APC

Chapter 11

(3) Deadlines: This adversary proceeding has been pending since 10/17/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 5/14/18

Expert(s) - deadline for reports: 5/18/18

Expert(s) - discovery cutoff (if different from above): 5/25/18

Dispositive motions to be heard no later than: 7/10/18

Joint Status Report: 3/27/18

Continued status conference: 4/10/18 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC	Pro Se
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Defendant(s):

Maximum Legal (California), LLP	Pro Se
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California Attorney Lending II, Inc.	Represented By Richard W Labowe
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Maximum Legal, LLC	Pro Se
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Todd C. Wakefield	Pro Se
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Chapter 11

Joseph Martin Barrett

Represented By
Damion Robinson

Richard Pachulski

Represented By
James KT Hunter

Plaintiff(s):

Wellgen Standard LLC

Represented By
Faye C Rasch

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:18-15829 Philip James Layfield

Chapter 7

#11.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 9/4/18, 9/18/18, 10/26/18,
12/6/18, 12/18/18

Docket 1

Tentative Ruling:

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/18/18:

Please see tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (12/18/18 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the Layfield & Barrett matter (calendar no. 1, 9/18/18 at 2:00 p.m.).

Party Information

Debtor(s):

Philip James Layfield

Pro Se

Trustee(s):

Wesley H Avery (TR)

Pro Se

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2:19-10762 Koi Design LLC

Chapter 11

#1.00 Hrg re: Motion for relief from stay [NA]

Docket 42

Tentative Ruling:

Grant Debtor's motion (dkt. 42, the "R/S Motion") for relief from the automatic stay such that Debtor may seek relief from its default in its litigation with creditor Strategic Partners, Inc. ("Strategic"), provided that Strategic also may proceed with its litigation, all subject to the limitations set forth below. Appearances required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Strategic opposition (dkt. 62)

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment or award against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce any final judgment or award by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

Note: If Judge Hatter were to determine, for example, that Debtor could

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Koi Design LLC

Chapter 11

only obtain relief from default by compensating Strategic for certain attorney fees and costs, Debtor would not be authorized to pay such amount without seeking a further modification of the automatic stay. (Procedures for doing so are outlined at the end of this part "(1)" of the tentative ruling.)

This Bankruptcy Court emphasizes that it does not seek in any way to impinge on the authority of the District Court. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage the bankruptcy case on behalf of the District Court. Those obligations including taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(d) Procedures for further modification/condition of stay. Any party in interest who seeks a further modification or condition of the automatic stay, or the relief granted herein, in light of subsequent developments, may do so by self-calendaring this matter on 14 days' notice to Debtor and Strategic. The notice must describe the additional relief that is being sought and the reasons in support of such relief, and the notice may be supported by any appropriate supplemental papers. The self-calendaring procedures are posted on this Court's website (www.cacb.uscourts.gov).

(2) Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

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"Cause' is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly:

(a) the relief set forth above will result in a complete resolution of the nonbankruptcy litigation with Strategic that is at the core of Debtor's business and Debtor's ability to reorganize. In addition, whether Debtor can obtain relief from default might be an important predicate to any malpractice action against Debtor's former attorney or his malpractice insurer, if any.

(b) The litigation with Strategic is intimately connected with this

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Chapter 11

bankruptcy case. In addition, based on the record before this Court the litigation with Strategic will not unduly interfere with this case - and if there were to be any undue interference that can be addressed in future because this Court retains jurisdiction to modify or condition the stay again, if necessary or appropriate.

(c) The interests of judicial economy and the expeditious and economical determination of litigation for the parties are best served by the relief set forth above. If Debtor is not permitted to seek relief during the pendency of this bankruptcy case then it will have to seek relief outside of bankruptcy, probably on an emergency basis, including both relief from its default and injunctive relief to substitute for the absence of the automatic stay. That would only increase the litigation.

(d) The impact of the stay on the parties and the "balance of hurt" favor granting relief. Judge Hatter is in the best position to determine whether to grant Debtor relief from its default and, if so, what conditions to impose that will mitigate any damages to Strategic.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Movant(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/13/19

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's motion for relief from automatic stay (dkt.)

The tentative ruling is to grant this motion, on the terms and conditions set forth in calendar no. 1 (2/13/19 at 2:00 p.m.).

(b) Cash flow

Debtor is directed to provide an update on its current cash flow andd anticipated DIP financing.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: TBD (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/5/19 at 1:00 p.m., status report due 2/19/19 (see dkt. 38).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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CONT... **Koi Design LLC**

Chapter 11

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/19

Appearances required. There is no tentative ruling, except that Debtor is directed to provide a brief overview of Debtor's current situation and possible exit strategies, and this Court intends to continue the status conference to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:00-00000

Chapter

#1.00 ***NOTE: If the (partial) government shutdown is renewed, many matters will be continued. See the tentative ruling for your individual matter.***

Docket 0

Tentative Ruling:

- NONE LISTED -

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8:30 AM

2:18-23072 Cassandra S Patrick

Chapter 13

#2.00 Hrg re: Motion for order determining value of collateral

Docket 24

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Valuation

Debtor has filed motions to value a Jeep at \$2,113 (dkt. 19, amended by dkt. 26) and a BMW at \$1,793 (dkt. 18, amended by dkt. 24). Creditor Lendmark Financial Services, LLC ("Lendmark") has filed oppositions with evidence that the correct value is \$4,225 for the Jeep (dkt. 30) and \$2,420 for the BMW (dkt. 29).

For the reasons stated in the opposition papers, the tentative ruling is that Debtor's valuation is too low, and Lendmark's valuation must be adopted.

Therefore the total value of Lendmark's collateral (both the Jeep and the BMW) is \$6,645 (\$4,225+\$2,420=\$6,645). Its proof of claim (no. 3-1, "POC") asserts a total claim of \$10,700.56 as of the petition date, secured by both vehicles. Accordingly, its secured claim is \$6,645 and its unsecured claim is \$4,055.56 (\$10,700.56-\$6,645=\$4,055.56), as stated in its POC.

(2) Other issues

The tentative ruling is that the other issues raised by Lendmark are not properly before this Court in connection with these motions to value collateral. For example:

Lendmark objects that in any lienstripping it must retain its lien until the earlier of (a) payment of the underlying debt or (b) discharge under 11 U.S.C. 1328. The tentative ruling is that, although Lendmark probably is correct (see 11 U.S.C. 1325(a)(5)(B)(i)(I)), that is a confirmation issue that this Court will not decide in connection with this valuation motion.

Lendmark objects that Debtor's plan must provide payments in an amount sufficient to provide "adequate protection" (see 11 U.S.C. 1325(a)(5)(B)(iii)) and

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CONT...

Cassandra S Patrick

Chapter 13

evidence of insurance on the vehicles. Again, although Lendmark probably is correct, the tentative ruling is that these issues are not presented by these valuation motions: they are issues for confirmation, or any motion for relief from the automatic stay (or any other proceedings in which the concept of "adequate protection" is relevant). See, e.g., 11 U.S.C. 361, 362(d)(1).

Proposed order: Lendmark is directed to lodge two proposed orders: one for each motion, but cumulatively only allowing a single secured claim and a single unsecured claim in the dollar amounts set forth above. Lendmark is directed to lodge those proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling (unless modified at the hearing). See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cassandra S Patrick

Pro Se

Movant(s):

Cassandra S Patrick

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-23072 Cassandra S Patrick

Chapter 13

#3.00 Hrg re: Motion for order determining
value of collateral

Docket 26

Tentative Ruling:

Please see the tentative ruling for calendar no. 2 (2/21/19 at 8:30 a.m.).

Party Information

Debtor(s):

Cassandra S Patrick	Pro Se
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Movant(s):

Cassandra S Patrick	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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2:19-10118 Chelsea Elyse Okerson

Chapter 13

#4.00 Hrg re: Motion for order determining
value of collateral Creditor: King of Credit Financial

Docket 13

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Chelsea Elyse Okerson

Represented By
Kevin Tang

Movant(s):

Chelsea Elyse Okerson

Represented By
Kevin Tang
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, February 21, 2019

Hearing Room 1545

8:30 AM

2:18-24338 Ruben Melgoza Mendoza

Chapter 13

#5.00 Hrg re: Motion to Avoid Lien Junior Lien
with 2005 Residential Trust 3-2 c/o
FCI Lender Services, Inc.

Docket 17

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ruben Melgoza Mendoza

Represented By
Matthew D. Resnik

Movant(s):

Ruben Melgoza Mendoza

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, February 21, 2019

Hearing Room 1545

8:30 AM

2:18-20928 James Burton Brown

Chapter 13

#6.00 Hrg re: Motion to be relieved as attorney of record

Docket 25

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

James Burton Brown

Represented By
Andrew Edward Smyth
Stephen S Smyth

Movant(s):

James Burton Brown

Represented By
Andrew Edward Smyth
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, February 21, 2019

Hearing Room 1545

8:30 AM

2:18-14375 Timothy Brian Gantner

Chapter 13

#7.00 Hrg re: Objection to proofs of claim no. 1-1,
2-1, 3-1 and 4-1 filed by Discover Student
Loans

Docket 25

Tentative Ruling:

Deny without prejudice. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Procedural issues

(a) No cost-benefit analysis

The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

The claim objection fails to include any cost/benefit analysis. The tentative ruling is to excuse that failure in this one instance, because the benefit of discharging purported student loans is readily apparent. But Debtor's attorneys are cautioned that in future they must always provide a cost/benefit analysis.

(b) No copy of proofs of claim

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Chapter 13

The claim objection fails to attach copies of the proofs of claim at issue, as required by LBR 3007-1(c)(2). The tentative ruling is to excuse this defect, with a caution to Debtor's attorneys that in future they must always provide copies of the claims to which they are objecting.

(c) Adversary proceeding required

Dischargeability determinations require an adversary proceeding. A claim objection is not sufficient. See 11 U.S.C. 523(c)(1); Rules 3007(b), 4007, & 7001(6) (Fed. R. Bankr. P.).

(2) Merits

(a) Allegedly inadequate documentation

The tentative ruling is to reject Debtor's arguments about inadequate documentation, for the reasons stated previously by this Court in a different case. See *In re Orozco* (Bankr. C.D. Cal., Case No. 2:13-bk-15745-NB), dkt. 132, at pp. 5:1-12:23 (explanation of burdens of proof and documentation regarding objections to claims), and dkt. 169.

(b) Prior chapter 7 discharge

Debtor argues that the loans already were discharged in a prior bankruptcy case he filed in Connecticut (Bridgeport) (Case No. 16-50293). To the extent, if any, that Debtor is arguing for any sort of preclusive effect from the prior bankruptcy case, that argument is unpersuasive.

Dischargeability under 11 U.S.C. 523(a)(8) (student loans) does not happen automatically, unlike dischargeability under 11 U.S.C. 523(a)(2), (4) and (6). As noted above, Debtor (or the holder of the alleged student loan debt) would have had to commence a dischargeability adversary proceeding for the prior bankruptcy case to have had any effect on whether the debts at issue are or are not dischargeable. 11 U.S.C. 523(c)(1); Rules 3007(b), 4007, & 7001(6) (Fed. R. Bankr. P.). Debtor has not alleged that there was any such adversary proceeding, let alone that he obtained a judgment of dischargeability.

None of that prevents Debtor from seeking a determination in an adversary proceeding in this case that the debt is not a qualifying student loan debt under section 523(a)(8). If Debtor obtains a judgment to that effect, then Debtor will have established that the debt was discharged in his prior chapter 7 case.

(c) Alleged nature of the debts

Debtor alleges that the loans at issue were not incurred "solely to pay

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Chapter 13

qualified higher education expenses within the meaning of 26 U.S.C. 221(d)(1) and (2)" and therefore, assertedly, do not qualify as nondischargeable under 11 U.S.C. 523(a)(8). Dkt. 25, p.8, para.8-9. Debtor cites *In re Christoff*, 527 B.R. 624 (9th Cir. BAP 2015).

Christoff involved a "tuition credit" which, the BAP held, did not qualify as an obligation to "repay funds" advanced, because no funds actually had been advanced. *Id.* at 633-35. It is unclear whether Debtor is alleging a similar set of circumstances (his declaration does not state whether he received tuition credits rather than loans).

Debtor might be making a more general analogy to *Christoff*, on the basis that the debts at issue are somehow different from the text of section 523(a)(8). But Debtor does not explain how this is so.

As this Court has explained before (see *Orozco*, cited in part (2)(a) of this tentative ruling) proofs of claim are presumptively valid; and the burden is on Debtor to assert grounds for disallowance and provide evidence in support of those grounds. The tentative ruling is that Debtor has not done so.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Timothy Brian Gantner

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Thursday, February 21, 2019

Hearing Room 1545

8:30 AM

2:18-14147 Juan Jose Lozano

Chapter 13

#8.00 Hrg re: Motion to reconsider 180 day bar

Docket 73

Tentative Ruling:

Deny for the reasons set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Reasons for denial:

(1) Reconsideration standards

Debtor has filed a Motion for Order to Remove 180 Day Bar to Re-Filing (the "No-Bar Motion," dkt. 73). Debtor seeks reconsideration of this Court's order imposing the 180 day bar against being a debtor in any future bankruptcy case (dkt. 69, the "Bar Order"), but he cites no authority for the applicable standards.

Presumably Debtor seeks relief under Rule 9024 (Fed. R. Bankr. P.).

The tentative ruling is to excuse his lack of citation to the applicable standards under that rule (this one time only) but to deny the No-Bar Motion for the alternative reasons set forth below.

(2) Plain meaning

The Bar Order was issued under 11 U.S.C. 109(g)(2). That statute provides:

notwithstanding any other provision of this section, no individual ... may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if - ... (2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title. [Emphasis added.]

Debtor did in fact request and obtain the voluntary dismissal of this case (dkt. 66, 69), and that occurred subsequent to the filing of a request for relief from the automatic stay (the "R/S Motion," dkt. 50) (which this Court granted, dkt.

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59). Therefore it appears that Debtor is barred by the plain meaning of the statute. Debtor's No-Bar Motion appears to assert two arguments to the contrary, although perhaps it is just one argument.

(a) Alternative interpretations of the statute

The No-Bar Motion argues that there are "four approaches" (dkt. 73, p.4:8, emphasis added) to the application of section 109(g)(2), but then it only addresses one approach. It concedes that this "majority" approach "holds that the plain language of sec. 109(g)(2) is mandatory." *Id.*, p.4:9-11. That does not help Debtor.

This Court will not do Debtor's research for him and determine whether any of the other three alleged approaches might help him. In any event, the tentative ruling is that there is an insufficient legal and factual basis to adopt the alternative approach that might be most likely to help Debtor. *See In re Payton*, 481 B.R. 460 (Bankr. N.D. Ill. 2016).

To be fair, it seems likely that the No-Bar Motion is not intended to argue otherwise. Essentially it appears to concede that no interpretation of the statute helps Debtor. Instead he is relying on his alternative argument: that this is one of those rare instances in which this Court should not apply the statute.

(b) Asserted grounds for not applying the statute

The No-Bar Motion argues that this is one of the "rare cases in which the literal application of a statute will produce results demonstrably at odds with the intentions of its drafters." Dkt. 73, p.4:23-25 (*quoting United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 242 (1989) (citation and typographical marks omitted)). Debtor alleges that the purpose of the statute is "to curb the abuse of repetitive filings" of bankruptcy cases (dkt.73, p.4:7-8) and that this is not such a situation.

Debtor admits that he filed this case to stop the foreclosure sale of his house (dkt. 73, p.3:4-7) and that in seeking a voluntary dismissal of this case he intended to "file another Ch 13 to start the process over again." Dkt. 73, p.5:5-10. But he asserts a variety of reasons why, allegedly, this is not abusive.

Debtor asserts that he had no bad faith or intent to "live in his house for free." Dkt. 73, p.5:5-10. He alleges that since the petition date he has "been making timely plan payments, but due to issue[s] at work and the death of his grandmother, he was not able to make postpetition mortgage payments." Dkt. 73, p.3:7-10. That led to the filing of the R/S Motion, and Debtor alleges that his prior attorney demanded \$700 to oppose the R/S Motion. Debtor did not pay that

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amount; and the prior attorney did not file any opposition to the R/S Motion or negotiate an adequate protection order ("APO"). Debtor alleges that he "would have [had] the financial ability to comply with" such an APO. Dkt. 73, pp.4:26-5:6.

The tentative ruling is that these alleged facts are nowhere near enough to establish that this is one of the "rare cases in which the literal application of a statute will produce results demonstrably at odds with the intentions of its drafters." *Ron Pair*, 489 U.S. at 242. To the contrary, Congress apparently intended to restrict multiple bankruptcy filings precisely in this situation: when a debtor does not resolve a motion for relief from the automatic stay with an APO (either a voluntary APO or one imposed by this Court), but instead requests and obtains a voluntary dismissal of the bankruptcy case.

True, Debtor now asserts that he could have resolved the R/S Motion with an APO. Perhaps that is so, but he did not do so (and, although Debtor blames his prior attorney, nothing compels attorneys to work for free or for the promise of future payments that might never be made).

The plain meaning of the statute governs for an additional reason: his argument essentially is that Congress could not have intended such a harsh result as punishing debtors like himself by giving them no bankruptcy relief. But his premise is flawed: he has not shown that Congress actually has barred him from any type of bankruptcy relief. If the facts truly are as Debtor alleges then Congress left open the option of filing a motion to vacate the dismissal and reinstate the dismissed bankruptcy case.

Of course, any such motion would have to be supported by evidence that Debtor really could comply with a reasonable APO and cure the \$8,573.04 default listed in the motion (plus any additional payments that have come due since then), as well as evidence that the case is otherwise viable (e.g., evidence that plan payments can be brought current if the dismissal is vacated). It is not clear if Debtor can do those things, but the fact that Congress left open this option is a further demonstration that the operation of section 109(g)(2) is not so completely draconian that it must be "demonstrably" at odds with Congress' intentions.

(3) Conclusion

Debtor has not established that section 109(g)(2) is inapplicable, or that this is one of those rare cases in which this Court has any power to disregard the

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plain meaning of the statute. Accordingly, tentative ruling is to deny the No-Bar Motion, without prejudice to seeking alternative relief.

If Debtor files a motion to vacate the dismissal of his bankruptcy case he will have to support that motion with appropriate evidence of his financial ability to comply with a reasonable APO and catch up on missed plan payments. In addition, any motion to vacate the dismissal of this case would have to comply with the applicable rules (e.g., Rule 9024, Fed. R. Bankr. P.) and procedures, such as the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) requiring evidence of attempts to negotiate with opposing parties before seeking reconsideration of prior rulings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Juan Jose Lozano

Represented By
Daniel King

Movant(s):

Juan Jose Lozano

Represented By
Daniel King

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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2:16-20699 **Urik Gagarin Ghazalian**

Chapter 13

#9.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 12/20/18

Docket 52

Tentative Ruling:

Tentative Ruling for 2/21/19:

Appearances required. This Court has reviewed Debtor's response (dkt. 66) to this Court's order setting this hearing (dkt. 63) and the following questions remain:

- (1) How much has Debtor's son paid to date, out of the \$25,000 settlement?
- (2) Has Debtor made any payments on the \$25,000 settlement other than through the Chapter 13 Trustee, and if so, on what authority?
- (3) What assurances are there that the Chapter 13 Trustee and Debtor, combined, will not distribute in excess of the \$12,850 priority amount? (This Court recognizes that the creditor would also be entitled to receive a pro rata share of any distribution to nonpriority creditors; but apparently those creditors have received \$0. See dkt. 47 at PDF p.3.)
- (4) Is the Chapter 13 Trustee satisfied with the accounting provided by Debtor?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/20/18:

Appearances required. There is no tentative ruling, but Debtor must address the issues raised by the Chapter 13 Trustee (dkt. 59).

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Chapter 13

Note: As set forth in this Court's orders setting Debtor's Motion to Modify Plan or Suspend Plan payments for hearing (dkt. 54, 55), the motion was filed using the incorrect ECF code, so it appears that the Chapter 13 Trustee did not have adequate notice. Counsel for Debtor is cautioned that any future attempt to obtain relief without adequate notice may result in denial of the request, or other remedies including (if appropriate) sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Urik Gagarin Ghazalian

Represented By
Roland H Kedikian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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2:14-33490 James Kevin King

Chapter 13

#10.00 Cont'd hrg re: Motion for an order to show cause re Civil contempt and for an order holding Deborah K. Johnson and her attorney Hiawatha T. Roberts in civil contempt fr. 10/25/18, 11/29/18, 12/20/18

Docket 127

Tentative Ruling:

Tentative Ruling for 2/21/19

Grant in part and deny in part as set forth below. Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Background

This Court has already determined that the automatic stay was violated by Mr. Roberts and Ms. Johnson. Dkt. 161, pp.2:4-3:14. This Court has also found that such violation was "willful" and thus they are "subject to actual damages, including costs and attorneys' fees, and may be subject to punitive damages." *Id.* pp. 3:25-5:4 (citations omitted).

This Court nevertheless provided an opportunity for both Mr. Roberts and Ms. Johnson to present evidence and argument in favor of mitigating any damages. *Id.*, p.5:7-21. Ms. Johnson has not filed any declaration, and Mr. Roberts reports that she is not responding to him. Dkt. 165, p.1:25-27. Mr. Roberts has filed his own declaration (dkt. 165).

(2) Damages

Mr. Roberts' declaration explains why he wanted to keep pursuing the State Court action that involves Debtor's interest in certain rental property. But Mr. Roberts does not adequately explain why he failed to abide by the automatic stay of 11 U.S.C. 362(a) despite repeated explanations of its applicability by Debtor's attorney, Mr. Bryson. See dkt. 127, Ex.5&7. Nor does Mr. Roberts establish any mitigation of damages. Accordingly, this Court must award

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damages under 11 U.S.C. 362(k) (formerly section 362(h)) (individual injured by willful violation of stay "shall" recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages").

(a) Overview

Debtor seeks (i) emotional distress damages of \$5,000 (*id.*, p.2:22-23), (ii) punitive damages of \$10,000.00 (*id.*, p.2:19-21), (iii) attorney fees and costs to date of \$8,374.94 (dkt. 166, p.2:12 & Ex.9), and (iv) additional attorney fees of \$1,200, based on an anticipated three hours at \$400/hr. in connection with this continued hearing on 2/21/19 (*id.*, p.2:16-18), for a total of \$9,574.94 in attorney fees (\$8,374.94 + \$1,200 = \$9,574.94).

The tentative ruling is to deny any emotional distress or punitive damages because Debtor and his wife have not met the applicable standards under section 362(k) and the decisions interpreting that statute. As for the requested attorney fees, the tentative ruling is to grant in part and deny in part, as further set forth below.

(b) Standards

Neither party has briefed the standards applicable to damages awards under section 362(k). This Court has conducted its own research. Any arguments in favor of any additional or different standards from what are set forth below have been forfeited.

Emotional distress damages are part of "actual damages." *In re Hunsaker*, 902 F.3d 963, 966 (9th Cir. 2018). The stay violation need not be "egregious," corroborating evidence is not necessarily required, and non-experts may testify to manifestations of mental anguish. *In re Dawson*, 390 F.3d 1139, 1148-51 (9th Cir. 2004). But to support emotional distress damages a debtor must show "clear evidence" of "significant harm" actually caused by the stay violation, as distinct, for instance, from the anxiety and pressures inherent in the bankruptcy process. *Id.*

Punitive damages require a showing of "reckless or callous disregard of the law or rights of others." *In re Bloom*, 875 F.2d 224, 228 (9th Cir. 1989) (citation omitted). An award of punitive damages typically is not awarded absent "egregious, intentional misconduct," and they might not be awarded if the conduct was not ongoing, or when there were no actual damages other than the attorney fees involved in bringing the motion under section 362(k). *In re McHenry*, 179 B.R. 165, 168-69 (9th Cir. BAP 1995) (citation omitted).

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Attorney fees are part of the compensatory damages that must be awarded under section 362(k). See *In re Easley*, 910 F.3d 1286 (9th Cir. 2018); *In re Schwartz-Tallard*, 803 F.3d 1095 (9th Cir. 2015). But attorney fees must be reasonable, and that includes a duty to mitigate attorney fees incurred in response to stay violations. *In re Roman*, 283 B.R. 1, 11-13 (9th Cir. BAP 1992).

(c) Evidence regarding emotional distress

Debtor's declaration (dkt. 127, at PDF p.18:19-20) states that upon learning that a default had been taken against him and his wife in the State Court action, he "became severely anxious and depressed" and he believed that his "entire Chapter 13 case was in jeopardy, in spite of having made regular and consistent payments to the Chapter 13 trustee for a number of years." He further declares that his distress was "shared with my wife, who was also named as a defendant in [the State Court action] and who suffered as a result." *Id.*

Ms. King's declaration says nothing about emotional distress. Dkt. 127, at PDF pp.23-24. In addition, this Court takes judicial notice that Debtor filed a motion to abandon the subject property (dkt. 92). Debtor has neither prosecuted that abandonment motion nor withdrawn it; but the fact that Debtor was even considering abandonment undermines Debtor's assertion that the subject property was so critical to this bankruptcy case that he and his wife suffered compensable emotional distress at the prospect that the violation of the automatic stay would cause them to lose the State Court litigation concerning rights to that property.

In sum, the evidence of any emotional distress does not amount to "clear evidence" of "significant harm" caused by the stay violation. *Dawson*, 390 F.3d 1139, 1148-49. Debtor has not established any emotional distress that exceeds the level of anxiety and pressures inherent in the bankruptcy process, and inherent in the fact that title and rights to the subject property are in dispute.

(d) Punitive damages

On the one hand, both Mr. Roberts and Ms. Johnson sought and obtained a default judgment against Debtor and his wife in a clear and willful violation of the automatic stay, and did not remedy that violation (*e.g.*, by asking the State Court to vacate the default judgment). On the other hand, several considerations weigh against any award of punitive damages.

First, in his telephonic appearances in this Bankruptcy Court Mr. Roberts has exhibited a lack of fundamental understanding of the bankruptcy issues. Ms. Johnson's understanding (or lack thereof) presumably is based on Mr. Roberts'

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understanding.

Second, Mr. Roberts and Ms. Johnson appear to have acted willfully but not maliciously. Mr. Roberts' declaration (dkt. 165) includes his own statements, supported by copies of correspondence, that appear to reflect frustration with not reaching the merits of the underlying State Court litigation rather than any specific intent to inflict harm on Debtor and his wife.

Third, Debtor and his wife have not shown any actual damages, apart from the attorney fees in bringing the motion under section 362(k). In fact, this Court previously has expressed concerns about whether they and Debtor's attorney, Mr. Bryson, have exercised appropriate judgment throughout the course of this bankruptcy case (i) in apparently using the automatic stay "as a sword rather than a shield" and (ii) in incurring substantial attorney fees regarding the subject property and other matters, given that the potential benefits appear to be outweighed by the litigation expense to the bankruptcy estate. See Abandonment Motion (dkt. 92) and Orders (dkt. 104, 149, 151).

For all of these reasons, the tentative ruling is not to award any punitive damages.

(e) Attorney fees

As noted above, attorney fees are part of the compensatory damages that this Court "shall" award (11 U.S.C. 362(k)), but attorney fees must be reasonable, and that includes a duty to mitigate attorney fees incurred in response to stay violations. *Roman*, 283 B.R. 1, 11-13. In this case, this Court has serious questions about whether the attorney fees are reasonable and were mitigated, taking into account what fees would be proportional to the matters at issue.

As noted above, Debtor has filed a motion to abandon the property. Dkt. 92. At prior hearings, and in a prior order (dkt. 161, pp.5:22-6:6), this Court has questioned why Debtor would not simply stipulate to relief from the automatic stay to pursue the State Court action, so that the title and rights to the property can be sorted out, rather than depleting the funds in the estate by litigating about the automatic stay (and any related issues, e.g., which forum should decide the merits). Debtor's papers do not address these issues, so there is a lack of evidence regarding the reasonableness and mitigation of the requested attorney fees.

To be clear, this Court is satisfied that in the abstract Mr. Bryson's bills are reasonable in terms of hourly rate and hours spent, if he and Debtor

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exercised appropriate discretion about what issues to litigate. But there is no evidence about whether appropriate discretion was exercised.

Using a hypothetical example to illustrate further, it would make no sense to embark on litigation on preliminary issues - issues about the automatic stay and which forum should decide the merits - that would then lead to further litigation about rights in the subject property, if (x) Debtor's interests in the property were unlikely to exceed, say, \$25,000 (before costs of sale etc.) and (y) the anticipated costs of all that litigation might well approach or exceed that amount. This Court is concerned that this hypothetical example might be all too real (or that the reality might be much worse). Cf. Abandonment Motion (dkt. 92, p.1:24-27) (Debtor initially estimated net equity of \$25,000 in property, but subsequently discovered his interest is likely half that).

The point is, there is cause for concern; this Court previously has raised these concerns; and yet Debtor's motion papers and supplements seeking damages under section 362(k) do not include any evidence on these issues. Therefore this Court could simply deny the request for attorney fees based on this lack of evidence.

But this Court is also concerned that parties (Ms. Johnson) and their attorneys (Mr. Roberts) must suffer some consequences for willfully violating the automatic stay. In addition, there is also a public service in Debtor and Mr. Bryson vindicating the application of the automatic stay. Finally, this Court recognizes that, at the time when Debtor and Mr. Bryson first learned of the violation of the automatic stay, they probably expected to incur relatively modest fees, because they probably expected that Ms. Johnson and Mr. Roberts would not be so foolish as to continue violating the automatic stay (especially when there is a quick and easy alternative of seeking relief from the stay).

Based on this Court's considerable experience reviewing fees in bankruptcy cases, it seems reasonable that Debtor and Mr. Bryson initially would have expected to incur fees in the range of \$2,000 to address the violation of the automatic stay, including an order from this Court that remedied any harm from the default judgment by determining that any such judgment was void. See Order (dkt. 161). In the face of unexpectedly willful and persistent violations of the automatic stay, perhaps Debtor and Mr. Bryson reasonably could have expected to expend another \$1,000 either to stipulate to relief from the automatic stay or, if Ms. Johnson and Mr. Roberts would not so stipulate, to move for relief from the automatic stay so that the issues could be resolved in the pending State

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Court proceedings.

In other words, even without any evidence from Debtor and Mr. Bryson specifically addressing the reasonableness and mitigation of their attorney fees, the record itself establishes a *prima facie* showing that attorney fees of approximately \$3,000 would be reasonable. As to the balance of the \$9,574.94 they now seek under section 362(k) (*i.e.*, \$9,574.94 - \$3,000 = \$6,574.94), the tentative ruling is to award those fees on a conditional basis.

If it turns out that the subject property actually is worth more than it appears to be worth on the present record (*i.e.*, if it has any net value to the bankruptcy estate) then Mr. Bryson would be compensated for his time out of that value, because his services would turn out (despite all indications to the contrary) to have created a net benefit for the estate. Similarly, if it turns out that the subject property has any worth to Ms. Johnson and Mr. Roberts, it is appropriate that they should not receive any funds from disposition of the property or its rents without reimbursing Mr. Bryson's attorney fees. Therefore the tentative ruling is to award the balance of \$6,574.94 out of any proceeds from the property or its rents that otherwise would go (i) to Ms. Johnson and Mr. Roberts and, after any such distributions, (ii) to Debtor or this bankruptcy estate. To the extent any of the foregoing is uncollectible, Mr. Bryson could charge the bankruptcy estate \$3,000 but no more.

(3) Conclusion

The tentative ruling is to award damages of \$3,000 against Mr. Roberts and Ms. Johnson, jointly and severally, payable to reduce Mr. Bryson's attorney fees, and to award Mr. Bryson an additional \$6,574.94 payable not by Mr. Roberts or Ms. Johnson in person, and not by this bankruptcy estate, but solely out of (i) any distributions from the property or its rents that otherwise would go to Ms. Johnson or Mr. Roberts and, after that, (ii) any distributions from the property or its rents that otherwise would go to this bankruptcy estate. Mr. Bryson is directed to lodge an appropriate order, including a provision for interest accruing on any amounts that remain unpaid as of March 1, 2019, at the post-judgment rate provided by law (this Court's website, at www.cacb.uscourts.gov, has information about the applicable rate).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/20/18 (same as for 11/29/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether the default judgment in the state court action has been vacated as contemplated in the Stipulation (dkt. 148, p.3, para.5) and whether there is a need to continue to pursue a hearing on the Order to Show Cause.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

James Kevin King

Represented By
Steven L Bryson

Movant(s):

Steven L. Bryson

Represented By
Steven L Bryson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-10873 Narendra Patel and Nirmaben Patel

Chapter 13

#11.00 Order to show cause re Dismissal due to simultaneous bankruptcy cases

Docket 20

Tentative Ruling:

The tentative ruling is to dismiss this case with a 180 day bar against being a debtor in bankruptcy, for willful failure to appear in proper prosecution of this case, for the reasons stated in this Court's order setting this hearing (dkt. 20). See 11 U.S.C. 109(g)(1). Appearances are not required. After the hearing time this Court will prepare the order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Narendra Patel Pro Se

Joint Debtor(s):

Nirmaben Patel Pro Se

Trustee(s):

Kathy A Dockery (TR) Pro Se

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8:30 AM

2:18-14320 Ronald G Sanchez

Chapter 13

#12.00 Cont'd hrg re: Objection to Claim 3-1 of California Uninsured
Employers Benefit Trust Fund; Request that Claim be Disallowed
fr. 11/29/18

Docket 30

*** VACATED *** REASON: Continue to 3/21/19 at 8:30 a.m. per
stipulation (dkt. 38) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Ronald G Sanchez

Represented By
David S Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:18-22241 Yasser Emad Sadek

Chapter 13

#13.00 Cont'd hrg re: Creditor James J. Joseph's Motion
for an Order Dismissing Chapter 13 Case
fr. 12/20/18

Docket 20

***** VACATED *** REASON: Taken off calendar per stip. (dkt. 44) and
order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Yasser Emad Sadek

Represented By
Louis J Esbin

Movant(s):

James J Joseph

Represented By
Kathleen J McCarthy
Thomas H Casey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

8:30 AM

2:18-13275 Hossein Daneshvar

Chapter 13

#14.00 Cont'd hrg re: Motion Objecting to Claim No. 5-1 on the Bakruptcy Court's Claims Register of Jerson Estrada; Request Claim to be Disallowed fr. 06/28/18, 08/02/18, 08/30/18, 10/25/18, 12/20/18, 1/24/19

Docket 24

Tentative Ruling:

Tentative Ruling for 2/21/19 (same as for 1/24/19):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearings on 12/20/18 and 1/24/19, this Court continued the hearing based on Debtor's assertion that a settlement had been negotiated. There is no tentative ruling, but the parties should be prepared to apprise this Court of the status of the negotiated settlement in the non-bankruptcy action, *Jerson Estrada v. Airport General Auto Repair, Inc.* (Superior Court, County of L.A., BC643391).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/20/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to apprise this

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CONT... **Hossein Daneshvar**

Chapter 13

Court whether this claim objection should be continued or if it has been effectively resolved by any judgment or other developments in the non-bankruptcy action, *Jerson Estrada v. Airport General Auto Repair, Inc.* (Superior Court, County of L.A., BC643391).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/25/18:

Continue to 12/20/18 at 8:30 a.m. because this matter is being resolved in the nonbankruptcy action in *Jerson Estrada v. Airport General Auto Repair, Inc.* (Superior Court, County of L.A., BC643391). See Order (dkt. 44) (granting relief from automatic stay for that action). Appearances are not required on 10/25/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/30/18:

Appearances required. There is no tentative ruling but the parties should be prepared to address the following issues.

This Court has reviewed the claim objection (dkt. 24), claimant's opposition (dkt. 35), and debtor's reply (dkt. 37). The claimant asserts (dkt. 35, p.4, n.1) that he "is also filing a motion from stay in order to have his claim adjudicated and liquidated in the State Court Litigation" and he claims that this bankruptcy case was filed "less than two months before the State Court Litigation's scheduled trial date." Dkt. 35, p.2:23-24. But, as of the preparation

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CONT... Hossein Daneshvar

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of this tentative ruling, no such motion for relief from the automatic stay has been filed.

The debtor asserts that this bankruptcy case was filed to protect the debtor from this litigation, but he does not cite authorities addressing whether claims litigation should be conducted in the Bankruptcy Court or in State Court. See, e.g., 28 U.S.C. 1334(c)(2) (mandatory abstention if non-core proceeding has been commenced, "and can be timely adjudicated," in a State forum of appropriate jurisdiction); 28 U.S.C. 1334(c)(1) (discretionary abstention); *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166-67 (9th Cir.1990).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/2/18:

Grant, with a caution that in future counsel for the debtor must include a cost/benefit analysis in connection with every claim objection. (In this instance that requirement is being excused because of the nature of the dispute at issue and because the proposed distributions (dkt. 29) appear to make the cost of this claim objection worth the attorney fees involved in prosecuting it; but in future this Court does not intend to do the analysis for the movant.) Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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8:30 AM

CONT... Hossein Daneshvar

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Party Information

Debtor(s):

Hossein Daneshvar

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Thursday, February 21, 2019

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9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, February 21, 2019

Hearing Room 1545

9:30 AM

2:18-23513 Linda Leng Lay

Chapter 13

#2.00 Show cause why this case should
not be dismissed with a bar

Docket 31

Tentative Ruling:

Appearances required. There is no tentative ruling, but the Debtor should be prepared to address why this case should not be dismissed with a 180-day bar (see dkt. 31).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Linda Leng Lay

Represented By
Raymond Perez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Thursday, February 21, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Monday, February 25, 2019

Hearing Room 1545

9:00 AM

2:19-11611 Yeni Ramos

Chapter 13

#1.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 7

Tentative Ruling:

Grant, subject to the following conditions, and also subject to any opposition at the hearing. Appearances required.

Key documents reviewed (other than the motion papers): Orders dismissing Debtor's three most recent bankruptcy cases.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

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9:00 AM

CONT...

Yeni Ramos

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Yeni Ramos

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 26, 2019

Hearing Room 1545

10:00 AM

2:16-14777 Danney Tarence Lewis and Katrina S. Lewis

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

MIDFIRST BANK
vs
DEBTOR

Docket 45

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 47).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Danney Tarence Lewis

Represented By
Jeffrey N Wishman

Joint Debtor(s):

Katrina S. Lewis

Represented By
Jeffrey N Wishman

Movant(s):

MidFirst Bank

Represented By
Kelsey X Luu

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CONT...

Danney Tarence Lewis and Katrina S. Lewis

Arnold L Graff

Cassandra J Richey

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, February 26, 2019

Hearing Room 1545

10:00 AM

2:17-16372 Eva Anderson

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST NATIONAL ASSOCIATION
vs
DEBTOR

Docket 111

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eva Anderson

Represented By
Edmond Richard McGuire

Movant(s):

U.S. Bank Trust National

Represented By
Kristin A Zilberstein
Kathy Watson
Michelle R Ghidotti

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 26, 2019

Hearing Room 1545

10:00 AM

2:17-20136 Joyce Miller

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

US BANK TRUST NATIONAL ASSOCIATION
vs
DEBTOR
.

Docket 33

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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CONT... Joyce Miller

Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joyce Miller

Represented By
Scott Kosner

Movant(s):

US Bank Trust National Association,

Represented By
Michelle R Ghidotti
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 26, 2019

Hearing Room 1545

10:00 AM

2:17-24251 Rosie Marie Parris

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 42

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 46).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rosie Marie Parris

Represented By
Stephen L Burton

Movant(s):

THE BANK OF NEW YORK

Represented By
Kelsey X Luu
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, February 26, 2019

Hearing Room 1545

10:00 AM

2:18-17854 Charles William Evans, Jr.

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

AJX MORTGAGE TRUST II
vs
DEBTOR

Docket 26

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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10:00 AM

CONT... Charles William Evans, Jr.

Chapter 13

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Charles William Evans Jr.

Represented By
Matthew D. Resnik

Movant(s):

AJX Mortgage Trust II, a Delaware

Represented By
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, February 26, 2019

Hearing Room 1545

10:00 AM

2:18-22505 Teddy Raczok

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 26

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court

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CONT...

Teddy Raczok

Chapter 13

presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Teddy Raczok

Pro Se

Movant(s):

Wilmington Savings Fund Society,

Represented By
Cassandra J Richey

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Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-24903 Evelio Bonilla

Chapter 7

#7.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

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Evelio Bonilla

Chapter 7

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Evelio Bonilla

Pro Se

Movant(s):

U.S. Bank National Association, as

Represented By
Merdaud Jafarnia

Trustee(s):

Timothy Yoo (TR)

Pro Se

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10:00 AM

2:19-10456 Paul Montes

Chapter 13

#8.00 ***[CASE DISMISSED ON 02/04/2019]***

Hrg re: Motion for relief from stay [RP]

BRECKENRIDGE PROPERTY FUND 2016, LLC
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant in part and continue in part to 3/5/19 at 10:00 a.m. as set forth below.
Appearances are not required on 2/26/19.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding future bankruptcy cases.

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the

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Paul Montes

Chapter 13

documents through which the movant asserts its interest in the property (sometimes referred to in the mortgage context as the "original borrower"). Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Alejandro Zapata and Felipe Salcedo.

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant (i) serving, on *the day after the current hearing date*, the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service no later than the next day. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Paul Montes

Chapter 13

Party Information

Debtor(s):

Paul Montes

Pro Se

Movant(s):

Breckenridge Property Fund 2016,

Represented By
Amelia B. Valenzuela

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-10456 Paul Montes

Chapter 13

#9.00 **[CASE DISMISSED ON 02/04/2019]**

Hrg re: Motion for relief from stay [UD]

MTGLQ INVESTORS LP
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the

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CONT... Paul Montes

Chapter 13

tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Paul Montes

Pro Se

Movant(s):

MTGLQ Investors LP

Represented By
Trace D Alexander

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:17-10214 Rogelio Lopez, Jr

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Rogelio Lopez, Jr

Chapter 13

Party Information

Debtor(s):

Rogelio Lopez Jr

Represented By
Julie J Villalobos

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:17-19762 Robert E Read

Chapter 13

#11.00 Hrg re: Motion for relief from stay [PP]

CAB WEST, LLC
vs
DEBTOR

Docket 74

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 76).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Robert E Read

Represented By
Donna R Dishbak

Movant(s):

Cab West, LLC

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-21552 Emile Auguste, Jr.

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

FINANCIAL SERVICES VEHICLE TRUST
vs
DEBTOR

Docket 42

Tentative Ruling:

Grant in part and limit in part, in response to Debtor's limited opposition (dkt. 44), all as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3), as the subject vehicle may not be repossessed prior to 3/26/19 for the reasons stated in Debtor's limited opposition (dkt. 76).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... Emile Auguste, Jr.

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Emile Auguste Jr.

Represented By
Roseann Frazee

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-23147 Theresa Kang

Chapter 13

#13.00 Hrg re: Motion for relief from stay [PP]

HONDA LEASE TRUST
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Theresa Kang

Chapter 13

Party Information

Debtor(s):

Theresa Kang

Represented By
Scott Kosner

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-23422 Robert Lynn Scott

Chapter 13

#14.00 Hrg re: Motion for relief from stay [PP]

LBS FINANCIAL CREDIT UNION
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Robert Lynn Scott

Chapter 13

Party Information

Debtor(s):

Robert Lynn Scott

Represented By
Raymond Perez

Movant(s):

LBS Financial Credit Union

Represented By
Karel G Rocha

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-21519 Mario A. Solares

Chapter 13

#15.00 Hrg re: Motion for relief from stay [NA]

GINEGAR PLASTICS PRODUCTS LTD
vs
DEBTOR

Docket 30

Tentative Ruling:

Grant for the reasons stated in the motion papers (dkt. 30) and due to Debtor's non-opposition (dkt. 33). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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CONT... Mario A. Solares

Chapter 13

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Mario A. Solares

Represented By
Kevin T Simon

Movant(s):

Ginegar Plastics Products Ltd

Represented By
Karen A Oneil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-10067 Brittanie Denise Lewis and Paris Cameron Lewis

Chapter 13

#16.00 Hrg re: Motion for relief from stay [UD]

IMT CAPITAL V STEVENSON RANCH, LLC
vs
DEBTOR

Docket 14

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Brittanie Denise Lewis and Paris Cameron Lewis

Chapter 13

Party Information

Debtor(s):

Brittanie Denise Lewis

Represented By
Jeffrey J Hagen

Joint Debtor(s):

Paris Cameron Lewis

Represented By
Jeffrey J Hagen

Movant(s):

IMT Capital V Stevenson Ranch,

Represented By
Agop G Arakelian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-10777 Pablo Andrade

Chapter 7

#17.00 Hrg re: Motion for relief from stay [UD]

MAIE 26 LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Relief notwithstanding *future* bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or

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CONT... **Pablo Andrade**

Chapter 7

previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there is insufficient evidence on the record to convince the Court that the Debtor is involved in a scheme to delay, hinder, or defraud the Movant as is required under 362(d)(4) or the other authorities cited above.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Pablo Andrade

Pro Se

Movant(s):

Maie 26 LLC

Represented By
Fari B Nejadpour

Trustee(s):

Jason M Rund (TR)

Pro Se

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2:19-11063 Franklin Duell Kates

Chapter 13

#18.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 8

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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CONT... Franklin Duell Kates

Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Franklin Duell Kates

Represented By
Barry E Borowitz

Movant(s):

Franklin Duell Kates

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:15-11521 Alma Jean Anderson

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/6/18, 11/27/18, 01/08/19

PROF-2013-S3 LEGAL TITLE TRUST II
vs
DEBTOR

Docket 66

Tentative Ruling:

Tentative Ruling for 2/26/19 (same as for 1/8/19 and 11/27/18):

Appearances required. At the request of the parties, this Court continued this matter for a possible adequate protection order (dkt. 69, dkt. 71). There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alma Jean Anderson

Represented By
William J Smyth
Stephen S Smyth

Movant(s):

PROF-2013-S3 Legal Title Trust II,

Represented By
Robert P Zahradka

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CONT... Alma Jean Anderson

Chapter 13

John D Schlotter
Dane W Exnowski
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:15-27558 Kelle Denise Warren

Chapter 13

#20.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 47

Tentative Ruling:

Tentative Ruling for 2/26/19:
Appearances required.

At the hearing on 1/8/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:
Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

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CONT...

Kelle Denise Warren

Chapter 13

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kelle Denise Warren

Represented By
Ali R Nader

Movant(s):

U.S. Bank National Association

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:16-19344 Ronald Lewis Williams

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 53

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Ronald Lewis Williams

Represented By
Joshua L Sternberg

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
William P McCooe Jr
Rosemary Allen
Jenelle C Arnold
Gilbert R Yabes

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-14054 Tracy L. Carnes

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 01/08/19

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 31

Tentative Ruling:

Tentative Ruling for 2/26/19 (same as for 1/8/19, 11/27/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tracy L. Carnes

Represented By
Barry E Borowitz

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Kelsey X Luu

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CONT... Tracy L. Carnes

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:17-20553 Victor Emmanuel Cruz Santos and Eustaquia Teresita

Chapter 13

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/05/19

JPMORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 33

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Victor Emmanuel Cruz Santos

Represented By
Brad Weil

Joint Debtor(s):

Eustaquia Teresita Lozada Santos

Represented By
Brad Weil

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-15783 Jose Villacorta and Sharlette M. Villacorta

Chapter 13

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/05/19

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 38

Tentative Ruling:

Tentative Ruling for 2/26/19 (same as for 2/5/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 40).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Villacorta

Represented By
R Grace Rodriguez

Joint Debtor(s):

Sharlette M. Villacorta

Represented By
R Grace Rodriguez

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CONT... Jose Villacorta and Sharlette M. Villacorta

Chapter 13

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-20426 Matthew Michael Totaro

Chapter 13

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/6/18, 12/11/18, 01/15/19

HERBERT V. LARSON
VS
DEBTOR

Docket 19

***** VACATED *** REASON: Withdrawal of Motion filed on 02/11/2019
(Dkt. 65)**

Tentative Ruling:

Party Information

Debtor(s):

Matthew Michael Totaro

Represented By
Michael R Totaro

Movant(s):

Herbert V. Larson Jr.

Represented By
Kelvin J Lo

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:18-21621 Perla Eva Sanchez

Chapter 13

#26.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/18/18, 01/15/19

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 16

Tentative Ruling:

Tentative Ruling for 2/26/19 (same as for 1/15/19 and 12/18/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order (see this Court's interim order, dkt. 22, and the debtor's late-filed supplemental evidence of projected contributions from her parents and feasibility, dkt. 26).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required. The parties should be prepared to address whether they will agree to the terms of an adequate protection order, including provisions that will make any future bankruptcy case ineffective to stay any acts against the subject property ("*in rem*" relief). See Debtor's response (dkt. 20).

Proposed order: If this Court is persuaded to grant such relief, then Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's

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CONT... Perla Eva Sanchez
final ruling. See LBR 9021-1(b)(1)(B).

Chapter 13

More specifically, the tentative ruling is that (1) on the present record some form of relief from the automatic stay is required, including *in rem* relief, because Debtor appears to have been involved in a "scheme" to "hinder" or "delay" creditors within the meaning of 11 U.S.C. 362(d)(4), due to the filing of this case on 10/2/18, within a relatively short time after the dismissal on 6/5/18 of the bankruptcy case filed by Francisca Sanchez (2:18-bk-15538-WB); but (2) "relief" from the automatic stay does not necessarily mean "termination" of the stay, and could take the form of an adequate protection order ("APO") that (a) requires monthly payments and (b) provides *in rem* relief as follows:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed. Any additional request for relief applicable to future bankruptcy cases is denied (*e.g.*, any request to grant relief against third parties *without* any notice is denied) due to lack of sufficient factual or legal grounds presented in support of such relief.

In other words, if Debtor has the financial ability to cure the arrears and otherwise prosecute this bankruptcy case, then Debtor can do so under an adequate protection order; but Debtor must establish that she has the financial ability to do so. In addition, no future bankruptcy case will affect the property (subject to the limitations in 11 U.S.C. 362(d)(4)), so Debtor and any other person who asserts an interest in the property or who is a signatory to the loan documents cannot continue to file repeated bankruptcy cases simply to delay any foreclosure.

The grounds for such relief are that this Court has the power to grant relief in the form of modifying or conditioning the automatic stay, not just terminating it (11 U.S.C. 362(d)), and the foregoing relief appears to be appropriate in the present circumstances. See *generally In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (even debtor who has excuses for hindering

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CONT... Perla Eva Sanchez

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and delaying creditors can be subject to *in rem* relief); *In re Bousheri* (Case No. 2:15-bk-11345-NB), dkt. 79 (analogous order, in valuation context, addressing effect of unauthorized transfer of interest in property).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Perla Eva Sanchez

Represented By
Lionel E Giron

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-24853 Ray A. Brown, Jr.

Chapter 13

#27.00 Cont'd hrg re: Motion for relief from stay [UD]
fr. 1/29/19

BRUCE KIM
vs
DEBTOR

Docket 14

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

(1) Supplemental declaration re standing

At the 1/29/19 hearing, this Court directed Movant to file a supplemental declaration providing evidence of Movant's standing by 2/5/19. No such declaration has been filed as of the preparation of this tentative ruling.

(2) Rent and escrow account

Debtor's Counsel should be prepared to discuss whether Debtor has deposited the January and February rent into a separate account to be held for payment to whomever is entitled to the rents (once the standing issue has been resolved) as discussed at the prior hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

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10:00 AM

CONT... **Ray A. Brown, Jr.**

Chapter 13

Grant in part - insofar as requiring a "stay current" adequate protection order ("APO") - and otherwise deny the motion, based on Debtor's opposition papers (dkt. 18, 19), Debtor's prospects for an effective reorganization (see draft Plan, dkt. 10), and the lack of sufficient showing of cause for "in rem" relief.
Appearances required to address the terms of the APO.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ray A. Brown Jr.

Represented By
Joseph A Weber
Fritz J Firman

Movant(s):

Bruce Kim

Represented By
Norma Iris Garcia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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11:00 AM

2:18-16739 Natalie V Howard

Chapter 7

#1.00 Hrg re: Motion to convert case to chapter 13

Docket 70

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Natalie V Howard

Represented By
Barry E Borowitz

Trustee(s):

David M Goodrich (TR)

Pro Se

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11:00 AM

2:18-24976 George Gerry Correa and Pamela Ruth Correa

Chapter 7

#2.00 Hrg re: Motion to compel trustee to abandon interest in property of estate and to Allow Debtors to Redeem Tangible Personal Property

Docket 12

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's Motion for Redemption of 2011 Nissan Murano SL Sport Utility 4D (dkt. 10), Wells Fargo's Opposition of Debtor's Motion for Redemption (dkt. 16).

Reason: While Wells Fargo disputes Debtor's stated redemption value for the subject vehicle (see dkt. 16), both proposed values are less than the debt owed to Wells Fargo. Therefore, the subject vehicle is of no consequential value to the estate.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

George Gerry Correa

Represented By
L. Tegan Rodkey

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CONT... George Gerry Correa and Pamela Ruth Correa

Chapter 7

Joint Debtor(s):

Pamela Ruth Correa

Represented By
L. Tegan Rodkey

Trustee(s):

John J Menchaca (TR)

Pro Se

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2:18-24976 George Gerry Correa and Pamela Ruth Correa

Chapter 7

#3.00 Hrg re: Motion to Redeem Property of the Estate
2011 Nissan Murano SL Sport Utility 4D Financed
Through Wells Fargo Dealer Services Under 11 U.S.C. 722

Docket 10

Tentative Ruling:

Grant, if Debtor pays \$10,308.40 on or before 3/29/19, and otherwise deny for the reasons stated in the opposition papers (dkt. 16). Appearances are not required.

Proposed order: Opposing party Wells Fargo Bank, NA is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

George Gerry Correa

Represented By
L. Tegan Rodkey

Joint Debtor(s):

Pamela Ruth Correa

Represented By
L. Tegan Rodkey

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CONT... George Gerry Correa and Pamela Ruth Correa

Chapter 7

Trustee(s):

John J Menchaca (TR)

Pro Se

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11:00 AM

2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

- #4.00** Cont'd Status Conference re: Complaint for Non-Dischargeability of Debtor Pursuant to 11 U.S.C. Section 523(a)(4) and 11 U.S.C. Section 523(a)(6) fr. 7/19/16, 12/13/16, 05/02/17, 09/12/17, 2/27/18, 6/12/18,10/9/18, 12/18/18, 1/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the status of the appeal in the civil matter.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 per the Plaintiff's filed status report (dkt. 28). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

The plaintiff mis-filed the status report in the main case (main case dkt. 42) instead of this adversary proceeding. The plaintiff also failed to lodge a proposed order continuing this matter (using this Court's "LOU" program), and instead attached it to the status report.

Notwithstanding these errors, the tentative ruling is to continue this Status Conference to 12/18/18 at 11:00 a.m. Plaintiff is directed to file the next status report in this adversary proceeding (not in the main case) no later than 12/4/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This matter has been continued multiple times (see tentative rulings reproduced below, and see Order, adv. dkt. 18). At the 2/27/18 hearing, this court further continued the hearing to today's date and directed plaintiff to give written notice. No such notice appears to have been filed on the docket. Why not?

There is no tentative ruling, but the parties should be prepared to address the issues described in the tentative ruling for 2/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Appearances required. At the hearing on 5/2/17 this court was persuaded to continue this matter to 9/12/17. This matter was further continued to today's date (see Order, adv. dkt. 18).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/2/17:

Appearances required. At the hearing on 12/13/16 this court was persuaded to continue this matter to today's date, with a deadline of 4/11/17 to complete mediation (see adv. dkt. 13 (mediation order)).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/13/16:

Continue to 2/7/17 at 11:00 a.m. at which time this court anticipates addressing, in view of the State Court's determinations as to pending matters, what trial date and other deadlines to set. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/19/16:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

(1) Failure to file a status report. Why did the plaintiff not file a status report updating the Court as to the status of the pending state court litigation (adv. dkt. 4)? Should this Court issue an order to show cause based on plaintiff's disregard of this Court's order?

(2) Status of the state court litigation. What is the status of the state court litigation?

(3) Continued status conference. Assuming that the state court litigation is still pending, this Court intends to set a continued status conference for 11/8/16 at 11:00 a.m. The plaintiff must file a brief status report detailing the current status of the state court litigation by 10/25/16.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
Leon Nazaretian

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian

Valerie Fykes

Represented By
Michael D Anderson

Forrest Fykes JR

Represented By
Michael D Anderson

Melissa Fykes

Represented By
Michael D Anderson

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

- #5.00 Cont'd Status Conference re: Complaint to Determine Nondischargeability of Debt fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).

Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).

Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).

Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).

Dispositive motions to be heard no later than: TBD

Joint Status Report: 3/12/19.

Continued status conference: 3/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

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(typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David MacMillan

Represented By

Robert S Altagen

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Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

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Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#6.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19:

The tentative ruling is (1) to continue this status conference to 3/26/19 at 11:00 a.m., with no written status report required prior to that continued date, and (2) to extend the discovery cut off to 3/15/19 per the parties' Joint Status Report (adv. dkt. 45). Plaintiff is directed to lodge a proposed scheduling order containing this new deadline, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form. Appearances are not required on 2/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's schedulings order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel

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approving the order as to form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have

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been determined and/or waived or forfeited (adv. docket number(s) 23).

(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why

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they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 3/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

Reasons: At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/23/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this

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tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

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Accelerated Capital Group, Inc. Pro Se

Does I through XX Pro Se

Plaintiff(s):

Rosendo Gonzalez Represented By
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR) Represented By
James A Dumas Jr

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2:19-10762 Koi Design LLC

Chapter 11

#1.00 Status Conference re: Chapter 11 Case

Docket 1

***** VACATED *** REASON: Continued to 3/5/19 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 26, 2019

Hearing Room 1545

1:00 PM

2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#2.00 Hrg re: Creditor Mazakoda, Inc.'s Objections to Debtor's Claimed Exemptions

Docket 45

***** VACATED *** REASON: Off Calendar [dkt. 62]**

Tentative Ruling:

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

**#3.00 Hrg re: Motion for Extension of Time to
File a Complaint Objecting to Discharge**

Docket 53

Tentative Ruling:

Please see tentative ruling in status conference (calendar no. 4, 2/26/19 at 1:00 p.m.).

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

**United States Bankruptcy Court
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1:00 PM

2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19

Docket 7

Tentative Ruling:

Tentative Ruling for 2/26/19:

Continue as set forth below. Appearances are not required on 2/26/19.

(1) Current issues

Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Until the transcript is received for the meeting of creditors (11 U.S.C. 341(a)), it is difficult to assess the issues raised in the opposition (dkt. 63) and reply (dkt. 64). The tentative ruling is to continue this hearing to the same time as the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required.

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CONT... Edmond Melamed and Rozita Melamed

Chapter 11

(1) Current issues

(a) Mazakoda, Inc's Objections to Debtor's Claimed Exemptions (dkt. 45)

The tentative ruling is to set the Objection to Exemptions for hearing on 2/26/19 at 1:00 p.m. (to be concurrent with the motion to extend the deadline to object to Debtors' discharge) with the usual deadlines for any opposition and reply.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 2/1/19.

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CONT...

Edmond Melamed and Rozita Melamed

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#5.00 Hrg re: Application for Compensation for Legal Services Rendered and Reimbursement of Expenses on Behalf of A.O.E. Law & Associates for Debtors In Possession from September 13, 2018 through January 15, 2019 for A.O.E Law Associates, APC

Docket 72

Tentative Ruling:

Please see tentative ruling in status conference (calendar no. 6, 2/26/19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19

Docket 26

Tentative Ruling:

Tentative Ruling for 2/26/19:

Continue as set forth below, with a deadline to file a draft plan and disclosure statement as set forth below. Appearances are not required on 2/26/19.

(1) Current Issues

(a) First Interim Fee Application (dkt. 72). Grant \$19,755.00 in fees and \$173.80 in expenses. *Proposed order*: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: file by 4/1/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

*Warning: special procedures apply (see order setting initial status conference).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 4/30/19 at 1:00 p.m., no written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m. Appearances are not required on 1/29/19.

(1) Current Issues

(a) No current issues to address.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/26/19 at 1:00 p.m., Status Report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Appearances required

(1) Current Issues

(a) Budget Motion (dkt. 11)

Grant on a final basis.

(b) Amended Cash Collateral Motion (dkt. 50)

Grant on a final basis. Per Debtors' status report (dkt. 49, p.3), the proposed order must include language that it shall not be construed as endorsing

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the statements to which creditor Poser Investments, Inc. objects. See dkt. 23.

(c) Motion to Employ Counsel (dkt. 18)

Grant on a final basis, based on the (late-filed) declarations of Julius and John Adeoye (dkt. 57, 58). See Interim Order (dkt. 39) & Egbase Decl. (dkt. 47).

(d) Proposed orders

Debtors are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/29/19 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required by counsel for the debtor and by Debtors themselves.

(1) Current issues

(a) Status report (dkt. 43, 45)

Debtors have not used the Local Form, which is mandatory in this case (see Judge Bason's posted procedures, available at www.cacb.uscourts.gov). The tentative ruling is to set a deadline of 11/13/18 to file the form and serve it on the United States Trustee.

(b) Motion to Employ Debtors' Counsel (Dkt. 18)

Debtors have not adequately addressed the issues in this Court's interim order (dkt. 39). Although proposed counsel declares (dkt. 47) that he has

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"learned" (from unspecified hearsay) that Debtors' relatives have funded the \$15,000 retainer as a gift, there is no declaration from the two alleged donors confirming this, and confirming all of their "connections" with all parties in interest and their attorneys and accountants (see dkt. 39, section 6.(a)), and their informed consent to potential or actual conflicts (*id.*, sec. 6.(c)), and Debtors' informed consent (*id.*, sec. 6.(d)). The tentative ruling is to continue this matter to the same time as the continued status conference (see below) and set a deadline of 11/13/18 to file appropriate declarations and serve them on the United States Trustee.

(c) MOR1 (Sept., 2018, dkt. 36)

Debtors report that they spent \$1,350.43 in cash, with no breakdown and just a vague description about "personal expenses," "charitable contributions," etc. The tentative ruling is that any proposed order authorizing the proposed budget must include a prohibition on Debtors spending more than \$50 cash on any one item or \$250 cash in the aggregate per month without attaching photocopies of receipts.

Several insurance policies have expired or are about to (see dkt. 36, at PDF p.16). What are Debtors doing about that?

(d) Motion to Use Cash Collateral (dkt 20)

First, Debtors failed to lodge a proposed order authorizing the use of cash collateral on the terms set forth in the adopted Tentative Ruling for 10/16/18 (see calendar no. 20, 11/6/18 at 1:00 p.m., which includes a copy of that earlier tentative ruling). The tentative ruling is to set a deadline of 11/13/18 to lodge that proposed order, with a copy of that tentative ruling attached.

Second, the original motion appears to have been superseded by an amended motion, which has not been separately filed and served but instead is attached as an exhibit to a supplemental declaration. See dkt. 29, Ex.B. The tentative ruling is to set a deadline of 11/13/18 to file and serve that motion, which will be heard at the same date and time as the continued status conference (see below).

Third, the tentative ruling is that no order granting Debtors' motions regarding cash collateral shall be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23. Debtors are directed to make this clear in their proposed orders.

(b) Motion for Order Approving a Budget (Dkt. 11)

Grant on an interim basis, with a continued hearing at the same time as

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the continued status conference (see below). The tentative ruling is that Debtors' (late-filed) declaration (dkt. 29 & Ex.A) has adequately addressed this Court's concerns about charitable donations.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/18/18 at 1:00 p.m., *brief* status report due 12/11/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#7.00 Hrg re: Motion for Order Authorizing 2004 Examination of Secured Creditor Crescent Capital Holdings, LLC and Production of Documents Pursuant to FRBP 2004

Docket 106

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 10, 2/26/19 at 1:00 p.m.)

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

**United States Bankruptcy Court
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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#8.00 Hrg re: Debtor's Motion for Authority to Sell Estate Property, 101 W. Las Flores Drive, Altadena, CA 91001 Free and Clear of All Liens, Claims and Interest Pursuant to 11 Section 363(f)

Docket 102

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 10, 2/26/19 at 1:00 p.m.)

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

Movant(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/15/19

CRESCENT CAPITAL HOLDINGS, LLC
vs
DEBTOR

Docket 78

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling in the status conference (cal. #10, 2/26/19 at 1:00 p.m.).

Tentative Ruling 1/15/19:

Appearances required. The tentative ruling is either (1) if no evidence of insurance is provided at the hearing, or perhaps within a very short window, to grant immediate relief from the automatic stay, and otherwise (2) to require Debtor to sell the subject property immediately, and set related procedures including a continued hearing on this motion for relief from the automatic stay, all as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Background

Movant previously filed a motion (dkt. 8) for relief from the automatic stay in this case. This Court issued an adequate protection order (dkt. 31, the "APO"). The APO provides that the stay will remain in place as long as Debtor makes adequate protection payments, but that the stay will not apply in any future bankruptcy case ("*in rem*" relief).

(2) Alleged cause for relief under 11 U.S.C. 362(d)(1)&(4)

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Motiv8 Investments, LLC

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(a) Insurance

Movant asserts that Debtor has failed to provide proof that the property is insured. See dkt. 78, p.3. Debtor's response (dkt. 83) fails to address this issue, as pointed out by Movant's reply (dkt. 85).

At the hearing, Debtor is directed to address whether the property is insured, and to make an offer of proof. This Court may be persuaded to terminate the automatic stay immediately if Debtor fails to provide adequate proof of insurance that complies with the loan documents (e.g., naming Movant as a party entitled to notice and/or as an insured party, if that is what the loan documents require).

(b) Order for relief from the stay in a related case

Movant now seeks relief again, pointing out that since the APO was issued an order granting relief from the automatic stay has been issued in a case filed by Debtor's principal and 100% equity owner, Sergio Moreno Morales. See *In re Morales* (Case No. 2:18-bk-16365-WB), dkt. 31 (issued on 7/3/18) (the "*In Rem Order*"). The In Rem Order grants relief under 11 U.S.C. 362(d)(4) - i.e., relief that is applicable notwithstanding any future bankruptcy case. By definition the In Rem Order is not applicable to this pending bankruptcy case, but Movant apparently believes the issuance of that order should be considered cause under 11 U.S.C. 362(d)(1)&(4) to modify the APO so as to terminate the automatic stay immediately.

This Court is not persuaded. First, as Debtor points, in this case there is no evidence that Debtor has failed to comply with the APO.

Second, the In Rem Order itself recites that there was no opposition to that order. In contrast, in this case Debtor has responded and adequately established, long before the In Rem Order was issued, that there were grounds to hold Debtor to a strict APO but not terminate the stay.

To summarize this Court's prior reasoning in issuing the APO, although it is true that Mr. Morales has filed multiple bankruptcy cases and previously arranged an unauthorized transfer of title to the real property from Debtor to himself, (a) title was restored to Debtor on or about 6/1/18 (see dkt. 21, p.4:5-6), (b) Mr. Morales has adequately explained his prior bankruptcy cases and the unauthorized transfer of title, at least for purposes of issuing the APO rather than terminating the automatic stay (see dkt. 21, pp.4:9-5:21, and 7:12-10:22), and (c) creditors would be harmed if the stay were terminated in this case. Not only does this reasoning still apply, but the APO is the law of this case, and Movant has

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CONT... **Motiv8 Investments, LLC**

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neither briefed the standards for overcoming the law of the case nor established legal or factual grounds for reconsidering the APO.

(3) Alleged grounds for relief under 11 U.S.C. 362(d)(2)

As Debtor argues, Movant must show both (a) a lack of equity in the property and (b) that the property is not necessary for an effective reorganization. Debtor disputes both of these prongs. Ultimately, however, both parties' arguments depend on whether there is equity in the property. If there is, then the property can be sold and net proceeds distributed to creditors. If there is no equity, Debtor has not suggested any reason why the property would be necessary to an effective reorganization.

Any equity in the property is equal to the property's value minus costs of sale and liens or other encumbrances. Debtor questions whether the dollar amount that Movant claims to be owed on its lien takes into consideration the payments made under the APO. That may make a difference of a few thousand dollars. The larger issue is the value of the property.

Movant asserts that the value is \$750,000. See dkt. 78, p.8 & Ex.M, and dkt. 85 at PDF pp.11 *et seq.* (Mauch Decl.). Debtor's principal asserts (dkt. 83, pp.9:20-10:2) that Debtor has recently accepted an offer to purchase the property for \$850,000, for which he will seek this Court's approval under 11 U.S.C. 363(b)&(f). Debtor's principal also asserts (*id.*) that he believes the property is actually worth much more - approximately \$915,000 - but that "in the interest of moving Debtor's reorganization along and avoiding Movant's attempts at relief and foreclosure" he "has determined that it is in the best interest of the estate to accept a purchase price of \$850,000.00."

The tentative ruling is that the best method of determining whether Debtor has an equity in the property (and hence, in the circumstances of this case, whether the property is necessary to an effective reorganization of Debtor's finances) is to move forward with the proposed sale of the property (presumably subject to overbids). As the Supreme Court has stated, generally "the best way to determine value is exposure to a market." *Bank of Am. v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457 (1999).

This Court takes judicial notice that Debtor has filed an application (dkt. 82) to employ a real estate broker. In other words, Debtor appears to be taking steps to proceed with the proposed sale of the property.

Accordingly, the tentative ruling is to set a deadline for Debtor to file and

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serve its motion to sell the property under 11 U.S.C. 363(b)&(f), and defer any other issues until after this Court determines whether or not to approve the proposed sale. The tentative ruling is that a motion to sell must be filed and served no later than 2/1/19, and self-calendared for hearing on 2/26/19 at 1:00 p.m.

In addition, the tentative ruling is to continue the present motion for relief from the automatic stay to the same time (specialy set at 1:00 p.m., rather than the usual time of 10:00 a.m.). In addition, the tentative ruling is to reschedule the upcoming Status Conference in this case from 2/5/19 to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

Movant(s):

Crescent Capital Holdings, LLC

Represented By
Amy E Martinez

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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/10/18, 9/18/18, 10/2/18, 11/27/18, 02/05/19

Docket 8

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues (dkt. 111 etc.)

Debtor's proposed sale of certain real estate is intertwined with Debtor's proposed employment of a real estate broker. The tentative ruling is to go forward with the sale hearing, including any overbids, and approve the sale on a provisional basis, with a continued hearing on both the employment application and the sale motion at the same time as the continued status conference (see below).

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

As pointed out by both the United States Trustee ("UST") (dkt. 104) and creditor Crescent Capital Holdings ("Crescent") (dkt.110), Mr. Gallardo is purporting to act as a dual agent, for both the seller (Debtor) and the proposed buyer (subject to overbids), Luis Vasquez. Judge Bason prohibits dual agency, as noted both in his posted Procedures (available at www.cacb.uscourts.gov) and in the order approving the prior real estate broker (dkt. 92) (Mr. Leal).

The tentative ruling is that the lack of dual agency is mandated by the disinterestedness requirements of the Bankruptcy Code and Rules, so it cannot be waived. It is irrelevant that, outside of bankruptcy, it is not uncommon for parties in real estate transactions to accept their agent's lack of disinterestedness. See Reply to Sale Motion (dkt. 115, p.3:10-21).

Accordingly, the tentative ruling is that, if the highest and best bid is that of Mr. Vasquez, then Mr. Vasquez must file a declaration confirming that he has retained his own real estate broker (who must be unaffiliated with Mr. Gallardo), and Mr. Gallardo must represent only Debtor and the bankruptcy estate (not Mr. Vasquez).

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Motiv8 Investments, LLC

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In addition, the parties are directed to address whether Mr. Gallardo and/or Debtor's counsel must pay the additional real estate broker out of either (i) a portion of the 4% commission that was to have been paid solely to Mr. Gallardo, or (ii) out of a reduction in Debtor's counsel's attorney fees, so that the bankruptcy estate is not prejudiced by Debtor's non-compliance with the prohibition on dual agency. In other words, should this Court order that the total commission to all real estate brokers combined must not exceed 4%?

In addition, there might be other grounds for objecting to Mr. Gallardo's employment, and the time for objections has not yet expired, so the employment cannot be approved yet. The employment application was served on 2/12/19, which means that objections can be filed until 3/1/19 (14 days plus 3 for service via U.S. mail). Until after that date, parties in interest and this Court will not know if, for example, someone were to object to Mr. Gallardo's employment and the proposed sale on the basis that Mr. Gallardo had an undisclosed interest in the sale.

The tentative ruling is that until Mr. Guillard's employment is approved, the sale must be only provisionally approved. The tentative ruling is that it is appropriate to shorten time (Rule 9006, Fed. R. Bankr. P.) because there is a substantial risk in any bankruptcy sale that if the sale is deferred then prospective purchasers may be unable or unwilling to continue to bid on the property (this Court takes judicial notice that there are considerable costs in holding a proposed sale open, if it is even possible to retain enough funds on hand to close a sale that has been deferred).

For all of the foregoing reasons, the tentative ruling is to set the employment application for hearing at the same time as the continued sale motion and continued status conference (see below).

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Continued hearing

The tentative ruling is to approve the sale (subject to overbids) on a provisional basis, with a continued hearing at the same time as the continued status conference (see below). Between now and that continued hearing, Mr. Vasquez must arrange for a separate real estate broker to represent him (or must proceed without any real estate broker), and must disclaim any reliance on any past representation by Mr. Guillard and any present representation by him. In

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addition, the parties can take whatever steps may be appropriate to address the issues set forth below.

(ii) No approval or payment of attorney fees at this time

The tentative ruling is to sustain the objection of the UST (dkt. 104), joined in by Crescent (dkt. 110), that attorney fees must be subject to approval by this Court pursuant to the usual procedures, and that any approval of the proposed sale shall not be deemed to be approval of the attorney fees. The tentative ruling is that the proposed attorney fees must be held by Debtor's counsel in a separate account from which funds cannot be released without further order of this Court (a "Blocked Account"). In addition, the tentative ruling is to defer any ruling on Crescent's objection that it should be paid in full before any attorney fees are allowed (dkt. 110, p.5:24-25), because the timing of any distribution of attorney fees can be addressed in connection with allowance or disallowance of those fees.

(iii) Payment of real estate taxes

Crescent objects (dkt. 110, pp.4:24-5:14) that LA County's claim for real estate taxes, estimated to be \$18,456.38, is of a lower priority than Crescent's own claim and therefore should not be paid until Crescent is paid in full. The parties are directed to address (x) whether the real estate taxes are in fact of a lower priority than Crescent's lien, (y) whether any doctrine of marshaling should apply (*i.e.*, whether, even if Crescent's lien is of a higher priority in this property, its claim should be paid from the sale of any other property of the estate so that LA County can be paid out of this sale, or alternatively whether LA County is entitled to a replacement lien on other property so that it is not prejudiced by the fact that this property is being sold prior to other properties), and (z) whether any disputed funds that Debtor proposes to pay either LA County or Crescent must be held in the Blocked Account pending further order of this Court.

In addition, the parties are directed to address how any accruing interest affects the analysis. For example, if funds are held in a Blocked Account pending resolution of the competing claims of LA County and Crescent, will those claims continue to accrue interest at the rate that otherwise would apply (*e.g.*, 18% or 29.99% or some other high rate), or only at the rate that is being paid by the bank at which the Blocked Account is maintained (*e.g.*, 1%)?

The parties also are directed to address what will happen if the funds are distributed to LA County (to stop interest running) but later turn out to be payable to Crescent or the bankruptcy estate. Will LA County be subject to a

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disgorgement order, consistent with any sovereign immunity analysis?

(iv) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying the real estate brokers until those brokers are actually retained. But the tentative ruling is to overrule Crescent's objection to the extent it is seeking to bar paying of any costs of sale, including real estate brokers, until it is paid in full, because those costs are properly chargeable out of Crescent's collateral. See dkt. 110, p.4:5-7; 11 U.S.C. 506(c).

(v) Payment of the portion of Crescent's claim that is not (yet) disputed

Crescent objects that Debtor has had considerable time in which to file any objection to its claim, but has yet to do so, and that the only portion of its claim as to which an objection has been outlined is the default interest. The tentative ruling is that this objection is well taken: not until 2/13/19 did Debtor assert that it would object to Crescent's claim on the additional ground of not fully funding the construction loan. See dkt. 114, p.4, para.7; dkt. 115, p.4:24-26. The tentative ruling is that this last minute suggestion of a possible type of claim objection is insufficient to support Debtor's proposal to withhold all distributions from Crescent.

In other words, the tentative ruling is that Debtor must pay all principal and non-default interest through the date of closing of escrow, plus all other charges included in the proof of claim, without prejudice to Crescent seeking additional charges and default interest, and conversely without prejudice to Debtor objecting at a later time to any charges (other than principal and non-default interest). This means that Debtor would have to pay out of escrow not only principal and non-default interest but also any attorney fees, late fees, or other charges included in the Proof of Claim, and Crescent subsequently could seek additional attorney fees and other charges, but Debtor subsequently could object both to any attorney fees and other charges that have already been distributed and to any new attorney fees and other charges.

The foregoing tentative ruling attempts to balance Debtor's broad rights to object to claims at any time against Debtor's unexplained delay in raising these issues, and against Crescent's rights (consistent with this Court's adequate protection order) to receive distributions without undue delay.

Debtor's latest closing statement (dkt. 114, Ex.A, at PDF p.6) lists the

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"Loan Payoff" as "To Be Determined" but with an (estimated) amount of \$512,500. Crescent is directed to address at the hearing the approximate dollar amount that will comport with the foregoing tentative ruling.

(vi) "Good faith" finding

The tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders. [Judge Bason's posted Procedures, available at www.cacb.uscourts.gov]

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued hearing on the Sale Motion.

(d) Motion for 2004 Examination (the "2004 Motion," dkt. 106)

Grant in part and deny in part as follows. The tentative ruling is to exercise this Court's discretion to limit discovery in keeping with the general principles set forth in Rule 26(b) and 45(d)&(e) (Fed. R. Civ. P.) and Rules 7026, 9016 and 9018 (Fed. R. Bankr. P.). Without limiting the foregoing, this Court is particularly aware that (i) although Debtor has yet to file any actual objection to Crescent's claim, that is clearly contemplated; (ii) Crescent has an

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interest in maintaining the confidentiality of its loan-analysis methodology; and (iii) Debtor has not shown that it lacks its own records on many of the issues on which it seeks discovery and that the relative burdens and benefits weigh in its favor.

The tentative ruling is that no later than 3/15/19 Crescent must produce the documents listed below (the list is excerpted from the 2004 Motion) and that Crescent's person most knowledgeable about the subject matter of those document requests must appear for examination at Debtor's bankruptcy counsel's law offices on 4/5/19 at 10:00 a.m. The document requests/subject matter that this Court tentatively will allow is as follows:

- (1) "ALL COMMUNICATIONS between YOU and the DEBTOR RELATING TO THE \$500,000 LOAN" (dtk. 106, PDF p.23, Section A.6)
- (2) "ALL DOCUMENTS, including COMMUNICATIONS, RELATING TO YOUR assessment of the default interest rate with respect ot he \$500,000 LOAN" (*Id.* at PDF p.24, Section A.11)
- (3) "ALL DOCUMENTS referring or relating to YOUR calculations of damages that YOU would sustain in the event of any default under the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.17)
- (4) "ALL DOCUMENTS referring or relating to YOUR analysis of the appropriate default interest to apply to the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.18)
- (5) "ALL DOCUMENTS referring or relating to YOUR efforts to arrive at a default interest rate that was intended to compensate YOU for actual anticipated damages that would result from a default under the \$500,000 LOAN" (*Id.* at PDF p. 25, Section B.22)
- (6) "All appraisals or title reports completed RELATING TO the REAL PROPERTY" (*Id.* at PDF p.26, Section B.26)

The tentative ruling is, notwithstanding Debtor's reply (dkt. 117), to sustain Crescent's objections (dkt. 109) to the remaining questions, without prejudice to Debtor seeking further discovery (either under Rule 2004 or under other discovery rules, as appropriate) based upon a proper showing. For example, as noted above Debtor now contemplates that it might object to Crescent's claim based on Crescent not fully funding the construction loan, but Debtor provides no information about the facts and circumstances, which might assist Crescent and this Court to evaluate whether discovery is or is not focused on relevant issues.

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Did Crescent promise to fund the loan with no strings attached, or did it impose performance metrics, or was the remaining funding within Crescent's sole discretion? What dollar amount did Crescent refuse to fund? When did it do so? What reasons, if any, did it give? Is Debtor contemplating a breach of contract objection, or a tort claim, or both?

In addition, the tentative ruling is to overrule Crescent's remaining objections as follows:

(i) LBR 2004-1(a): While the conference between Debtor and Crescent may not have been productive (dkt. 109, p.2), this Court is satisfied that for present purposes, the parties have "attempt[ed] to confer" as required by LBR 2004-1(a).

(ii) LBR 9013-1: Although the amount of notice of Debtor's 2004 Motion was short, Crescent has not shown that it was prejudiced by such shortened notice. The tentative ruling is to excuse any untimeliness in the 2004 Motion.

(iii) Laches: Crescent has not alleged sufficient delay to persuade this Court that relief based on laches is appropriate.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/5/19 at 1:00 p.m., no written status report required

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:
Appearances required.

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(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). Once again, the bar date order has not been served. But in view of Debtor's substitution of new counsel, the tentative ruling is to set yet another new bar date as set forth below.

(b) Advantage Realty Group Attempted Sale Properties. The parties should be prepared to address the status of any contemplated marketing and sale of properties.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set to 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 9/18/18:
Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). The order directs the debtor to serve all parties in interest no later than 7/16/18 but no proof of service appears on the docket. Why not? The tentative ruling is to set a new bar date of 12/7/18 (the debtor should not serve any notice at this time; this Court will prepare and issue the order after the hearing).

(b) Application to Employ Hector Perez/Advantage Realty Group (dkt. 33). There is no tentative ruling, but the parties should be prepared to address (1) the issues raised in the opposition by Crescent Capital Holding LLC (dkt. 45); (2) whether the debtor is seeking to employ Mr. Perez, or Advantage Realty Group, or both; and (3) the absence of Local Form 2014-1 (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov).

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set see above.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/16/18 at 1:00 p.m., *brief* status report due 10/4/18

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18:

Appearances required by counsel for the debtor and by the debtor itself.

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(1) Current issues. This Court has reviewed the debtor's status report (dkt. 18) and other relevant documents.

(a) Status Report. Debtor used an old form of status report. Judge Bason's current posted procedures require the use of local form F 2081-1.1.C11.STATUS.RPT. Counsel is directed to review Judge Bason's posted procedures and to use the appropriate form status report in future.

(b) Motion for relief from automatic stay. There is no tentative ruling, but the debtor and Crescent Capital Holding LLC should be prepared to address the issues raised in the motion (dkt. 17) and debtor's response (dkt. 21) regarding the Las Flores property, including the previous grant of "in rem" relief against the property, and whether the debtor has provided sufficient evidence of insurance on the property.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 9/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/28/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By

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2:18-16114 Ricardo Edmundo Lengua and Pamela Lorraine Lengua

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#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/26/18, 08/14/18, 10/16/18, 11/27/18, 12/11/18,
1/29/19

Docket 6

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances are not required. Continue as set forth below.

(1) Current issues

(a) This Court has reviewed the Debtors' latest filed documents, including its Monthly Operating Report (dkt. 80) and Status Report (dkt. 79). This Court is not aware of issues that would warrant a status conference at this time.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 4/9/19 at 1:00 p.m. Status report due 4/2/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/18:

Appearances are not required.

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(1) Current issues

(a) Motion to Refinance (dkt. 68). Grant, subject to the conditions in Citibank's Non-Opposition (dkt. 74) and subject to any proposed payment of debtors' attorney fees being held in a trust account with no distributions absent further order of this Court.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 2/26/19 at 1:00 p.m. Status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to Use Cash Collateral (dkt. 57). Withdrawn (dkt. 69).

(b) Proposed refinance. The refinance motion (dkt. 68) was not filed until 12/3/18 - almost half a year after this case was filed: why was it not filed sooner? The motion fails to include the mandatory notice of hearing, objection deadlines, etc. The motion contemplates that the sale will close in January of 2019, but it lists a hearing date of 1/29/19 at 1:00 p.m., which would give almost no leeway to

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close in January after the hearing: why was the hearing self-calendared so far out? The motion admits that the payoff amounts will increase by then: will the refinance provide sufficient funds to pay all liens in full? The escrow statement contemplates a payment of \$30,000 to Debtors' counsel: any such payment must be held in a trust account unless and until approved by this Court. The tentative ruling is to continue this status conference for one week to see if these issues have been corrected, with a warning to counsel for Debtors that there likely will be consequences to his continued disregard for the rules and procedures of this Court, including a reduction in fees.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 12/18/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to Use Cash Collateral. Grant on an interim basis, as set forth in the tentative ruling in calendar no. 11 (11/27/18 at 1:00 p.m.).

(b) Proposed refinance. At the status conference on 10/16/18, Debtors' counsel anticipated filing a motion for a refinance very shortly thereafter, and the

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tentative ruling for that date set forth various items that Debtor would need to address. No such motion is on the docket. The refinance motion was supposed to supersede the proposed plan and disclosure statement, and as noted in the tentative ruling for 10/16/18 those documents are incomplete and confused. See *also* dkt. 65 (objection of Ditech Fin. LLC). Are debtors and their counsel properly prosecuting this case?

The tentative ruling is to continue this Status Conference with a warning to Debtors and their counsel that if they do not prosecute this case then it likely will be dismissed with a bar against being a debtor again, or converted to chapter 7, or this Court may impose other remedies.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 1/15/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed debtor's status report (dkt. 50) and other relevant pleadings.

(a) Plan (dkt. 47) and Disclosure Statement (dkt. 48). These documents are incomplete and confused. But the tentative ruling is that there is no need to

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proceed with these documents if Debtors are going to proceed with a proper motion to refinance and pay all creditors in full (as stated in their status report).

(b) Proposed refinance. The claims register lists total claims of \$419,929.77 as of the petition date (of which \$366,270.15 are listed as secured and \$150.29 as priority). The proposed refinance would generate loan proceeds of \$463,000. This appears to be sufficient to pay all claims, probably including postpetition interest, although perhaps not including 100% of asserted administrative expenses. Counsel for the debtor should be prepared to address (i) the form of motion he intends to file, (ii) whether that motion will seek authority to pay unsecured claims, and (iii) whether unsecured claims will be paid out of escrow or by some other means and, if the latter, who will hold the net proceeds after payment of secured claims.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Continue to the date and time set forth below. Appearances are not required on 8/14/18.

(1) Current issues. This Court has reviewed debtor's status report (dkt. 38) and other relevant pleadings.

(a) This Court does not have any issues to raise *sua sponte*.

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CONT... Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

- (2) Dates/Deadlines. This case was filed on 5/28/18.
- (a) Bar date: 9/4/18 (timely served, dkt. 23, 25)
 - (b) Plan/Disclosure Statement*: file by 9/25/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
- Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).
- (c) Continued status conference: 10/16/18 at 1:00 p.m. *Brief* status report due 10/2/18.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

Appearances required by counsel for the debtor and by the debtor themselves.

(1) Current issues. This Court has reviewed the debtors' status report (dkt. 14), and the other filed documents and records in this case.

(a) May MOR (dkt. 18). The MOR purports to cover the period from 5/28/18 (the petition date) to 5/31/18, but is essentially blank, including the section for disclosure of existing insurance coverage (dkt. 18, pdf p. 5). Debtors should be prepared to address (i) whether they have insurance coverage on their residential real property (and any other asset requiring insurance); and, if they do

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(ii) whether they read the MOR and understood it prior to signing.

(b) Case Status Report (dkt. 14).

(i) Budget Motion. The status report says that a budget motion is not required by Judge Bason's procedures (dkt. 14, pdf p. 3), but that is not correct. See Judge Bason's Procedures, Section VII.F ("Judge Bason requires the use of local forms F 2081-2.2.MOTION.BUDGET and F 2081-2.2.ORDER.BUDGET"). Did counsel actually review the posted procedures? The tentative ruling is to set a deadline of 6/28/18 to file and serve a budget motion.

(ii) Consumers' confidential information. The status report states that the debtors do not have possession, custody, or control of consumers' confidential information (dkt. 14, pdf p. 10), but this Court questions whether that is accurate. What about customer lists from Hey Baby Sales, Inc.? Do the debtors claim any rights to those lists? (e.g. if the case were converted to a chapter 7 case, a sale of the debtors' interest in the company took place, and the buyer wanted the customer lists, would the debtors agree they could not retain or use the lists because the lists are owned by the company?).

The debtors should be prepared to address what steps they will take to protect confidential consumer information, and whether a consumer privacy ombudsman is required (11 U.S.C. 332).

(2) Deadlines/dates. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/25/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/14/18 at 1:00 p.m., *brief* status report due 7/31/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricardo Edmundo Lengua

Represented By
John A Harbin

Joint Debtor(s):

Pamela Lorraine Lengua

Represented By
John A Harbin

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2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 4/10/18, 5/1/18, 6/12/18, 08/07/18, 9/4/18,
10/16/18, 11/6/18, 12/11/18, 01/15/19

Docket 7

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. ("WF," Class 2B in the debtor's draft Plan, dkt. 47)? This case is nearing its one year anniversary. If Debtor cannot negotiate a consensual resolution with WF, Debtor must either attempt a non-consensual plan or this case may be dismissed or converted.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

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- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).
 - (b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.
 - (c) Continued status conference: 1/15/19 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

- (1) Current issues
- (a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?
 - (b) BONY/Mellon. The tentative ruling is to approve the Bank of New York Mellon Stipulation (dkt. 52).
- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).
 - (b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.
 - (c) Continued status conference: 12/11/18 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties should be prepared to discuss what progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47). This Court is aware of the motion to approve the stipulation with the holder of Class 2A claims, Bank of New York Mellon (the "Mellon Stip," dkt. 52). The tentative ruling is to move the Mellon Stip hearing from 11:00 a.m. to 1:00 p.m., and continue this status conference to the same date and time, with no written Status Report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's draft plan (dkt. 47) and disclosure statement (dkt. 46) and this Court has no issues to raise sua sponte. Has the debtor had any negotiations with secured creditors? Is it more

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appropriate to allow additional time for such negotiations, or to authorize the debtor to mail a voting package to all parties in interest and set a combined hearing on final approval of the disclosure statement and confirmation of the plan for the same time and date as the continued status conference set forth below?

- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).
 - (b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.
 - (c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/7/18:

Continue as set forth below. Appearances are not required on 8/7/18.

- (1) Current issues. This Court has no issues to raise sua sponte.
- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).
 - (b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 9/4/18 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. The debtor's proofs of service continue to be defective. Elizabeth Cruz declares that she has served the "PROOF OF SERVICE" itself, not the underlying orders. See dkt. 20 at PDF p.2 and dkt. 31 at PDF p.2.

At the hearing counsel is directed to explain why the proofs of service are defective, and what steps will be taken to correct this issue so that it no longer occurs. The deadline is 6/19/18 to file further amended proofs of service of both orders (the order setting principal status conference etc. at dkt. 6, and the bar date order at dkt. 23).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (Order, dkt. 23). See above.

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/7/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/1/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion (dkt. 13). Counsel must address:

(i) Income as of petition date or current? The debtor has filed an amended bankruptcy Schedule I (dkt. 30). Is that actually intended to be a decaration of postpetition income, or a correction of the debtor's income as of the petition date?

(ii) Amended budget motion? Should an amended budget motion needs to be filed and served, or is such notice unnecessary and should the budget be deemed amended, in view of what appears to be an increase of approximately \$168 in the debtor's monthly income (compare dkt. 13 at PDF p.8, debtor's personal income of \$2,800, with dkt. 30, line 7, debtor's personal income of \$2,968)?

(b) Cash collateral motion (dkt. 12). Grant on a final basis, on the same terms as the interim order (dkt.24).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (Order, dkt. 23). **Note:** Timely served? Per the proof of service (dkt. 26, the "POS") the debtor served the POS itself on creditors. Presumably the debtor means that she served the order on creditors (not the POS), but the debtor is directed to file an amended POS saying so, no later than 5/3/18.

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/12/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Failure to serve order. This Court's order setting this status conference (dkt. 6) directed the debtor to serve a copy of that order on all parties in interest no later than 14 days prior to this status conference. No proof of service appears on the docket. The tentative ruling is to set a deadline of 4/11/18 for the debtor to effect such service, with a caution to counsel that in future such failure may result in sanctions.

(b) Budget motion (dkt. 13). Grant on an interim basis, with a final hearing on the same date at the continued status conference set forth below.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/1/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19

Docket 5

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues.

Debtor's status report (dkt. 55) reports some alleged progress in exploring either sale(s) of assets or sale of the business or both. What is the timeline? What assurances do creditors have that debtor's uncertainty on these issues (two months into this case) will not deplete rather than enhance any potential recoveries?

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., with a *brief* status report due 3/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. Continue as set forth below.

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(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

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Jackies Cookie Connection LLC

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(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g) (1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

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CONT... Jackies Cookie Connection LLC

Chapter 11

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:17-10002 Rescue One Ambulance

Chapter 11

#14.00 Cont'd Status Conference re: Post Confirmation
fr. 1/17/17, 1/31/17, 2/21/17, 4/11/17, 05/09/17,
6/20/17, 8/22/17, 10/17/17, 12/12/17, 2/27/18,
5/29/18, 9/18/18, 12/18/18, 1/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Debtor is directed to provide an oral status report. This status conference has been continued several times in anticipation of the final resolution of all pending matters and issuance of a final decree, but that has yet to happen. Why not?

The tentative ruling is to continue this status conference to 4/9/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then. Appearances are not required on 1/29/19.

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CONT... **Rescue One Ambulance**

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Continue to 1/29/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then. Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This status conference was continued from 8/18/18 to 9/18/18 (dkt. 142). Based on recent docket activity, this Court is aware of the following issues.

(a) Dispute with State Compensation Insurance Fund (dkt. 145-156, 158, 159). Has this matter been resolved? Perhaps so, because the Status Report (dkt. 170) does not mention it. If not, what is the status of the parties' disputes?

(b) Final decree (dkt. 141, 151). The Status Report (dkt. 170) projects filing another motion by 12/31/18, so the tentative ruling is to continue this post-confirmation Status Conference to 12/18/18 at 1:00 p.m., with no written status report required and with the expectation that it might go off calendar if a motion

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CONT... **Rescue One Ambulance**

Chapter 11

for a final decree has been filed by then.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/29/18:

Continue to 8/18/18 at 1:00 p.m., *brief* status report due 8/4/18, based on the debtor's status report (dkt. 140), with those dates all subject to being mooted if a final decree is issued before that time. Appearances are not required on 5/29/18.

(1) Current issues. This court has no issues to raise *sue sponte*.

(2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 5/29/18 at 1:00 p.m., *brief* status report due 5/15/18, all subject to being mooted if a final decree is issued before that time. Appearances are not required on 2/27/18.

(1) Current issues. This court has no issues to raise *sue sponte*.

(2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was

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confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/12/17:

Continue to 2/27/18 at 1:00 p.m., *brief* status report due 2/13/18, all subject to being mooted if a final decree is issued before that time. Appearances are not required on 12/12/17.

(1) Current issues. This court has no issues to raise *sue sponte*.

(2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rescue One Ambulance

Represented By
Michael Jay Berger

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2:18-18929 Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

#15.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/4/18, 10/9/18, 11/6/18, 12/11/18, 01/15/19

Docket 14

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues

(a) Disclosure statement (dkt. 64) and plan (dkt. 65)

Judge Bason will review various issues with these documents at the Status Conference, and address when amended documents must be filed.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: see above

(c) Continued status conference: The tentative ruling is to continue this status conference to 3/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

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CONT... Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

(1) Current issues

(a) Monthly Operating Reports ("MORs")

The November MOR (dkt. 62, p.2) includes numerous entries described as "Funds Transfer." How is the reader to know what that means? The same MOR includes a column of numbers with nothing else next to it (dkt. 62, p.3). How is the reader to know what that means?

(b) Plan and Disclosure Statement ("D/S")

The deadline to file the Plan and D/S is fast approaching (see below). What is the outline of Debtor's intended plan? Has Debtor reviewed Judge Bason's procedures and form of order re same?

(c) Employment of counsel

At the hearing on 12/11/18 this Court adopted the tentative ruling approving counsel's employment, which directed that a proposed order be lodged within 7 days. Why has no such order been lodged?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: 1/31/19 (dkt. 59)

(c) Continued status conference: The tentative ruling is to continue this status conference to 2/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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CONT... Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

(1) Current issues

(a) MORs (dkt. 51, 52, 50 for Aug., Sept. & Oct.)

(i) The Payroll Account continues to show a negative balance. How is that sustainable? (ii) The amended August MOR provides for payments to insider Savita Viradia. Why was there no notice of insider compensation filed and served for this person, and what consequences should follow? (iii) The Tax Account shows no activity, and the Tax Liabilities section is blank. Is Debtor paying and/or reserving for all employment, sales, business, income, and other taxes?

(b) Motion to employ (dkt. 49)

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: The tentative ruling is to continue this status conference to 1/15/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues

(a) MORs (dkt. 44, 45)

MOR1 (for August, 2018) shows an ending balance of negative \$4,549.03. MOR2 (for September 2018) shows an ending balance of negative \$4,074.81. Both MORs also show negative postpetition accounts receivable. What does that mean?

Both MORs were also filed late. They were due middle of the month following the reporting period, and this Court's adopted tentative ruling for 10/9/18 directed that the defective August MOR be cured by 10/15/18 but it and the September MOR were not filed until 10/31/18.

Are the (untimely) MORs inaccurate? How can parties in interest and this Court rely on them for current information? If they're accurate, they appear to show losses, or at least an inability to generate profits that would be needed to reorganization.

In view of all the foregoing, should this case be converted or dismissed?

(b) Insider compensation

Debtor's notices of insider compensation (dkt. 46, 47) were not served until 10/24/18, even though this Court's adopted tentative ruling for 10/9/18 directed service no later than 10/12/18. Why?

Meanwhile, although Debtor's principal Neel Viradia declares under penalty of perjury that no unauthorized insider compensation has been paid (dkt. 45, p.16, answer #2), the breakdown of payroll in the MORs apparently shows otherwise (e.g., dkt. 45, p.5, lines 1-2). The form itself states (e.g., dkt. 47, p.2, bottom of page): "[T]his notice ... must be filed and served fifteen days before any pay out of compensation" What consequences should follow from Debtor's apparent violation of that limitation?

(c) Employment (dkt. 32, superseded by amended application, dkt. 42)

The amended application does not specify whether the \$10,000 fee already paid by Batuk Viradia (and the filing fee), or the \$2,000 he has committed to pay, are loans to Debtor, or gifts, or equity investments, or something else. Nor has he filed a declaration confirming that he understands that proposed counsel's sole loyalty must be to Debtor (not to Mr. Viradia), and that has been informed that there might be conflicts of interest and he may wish to seek separate counsel (e.g., conflicts could exist if Mr. Viradia received any preferential payments or other avoidable transfers, or if Mr. Viradia would prefer that Debtor take a course of action that is not in the best interests of creditors).

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More generally, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

The tentative ruling is that, if this case is not dismissed or converted, the employment application must be continued to the date of the continued status conference (set forth below) with a deadline of 11/13/18 for Debtor to file Mr. Viradia's declaration, with a copy of this tentative ruling attached as an exhibit, addressing the issues described above.

(d) Cash collateral. If this case is not dismissed or converted, the tentative ruling is to authorize the use of cash collateral on a final basis, on the same terms as the interim authorization (dkt. 37).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35). Although the order was not timely served (see dkt. 41), the tentative ruling is that the confusion of setting yet another bar date would outweigh the benefit, and that this Court can address any prejudice from shortened notice when and if anyone files a late claim and seeks to have the claim treated as timely.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 12/11/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

Revised Tentative Ruling for 10/9/18:

Appearances required.

(1) Current issues.

(a) Cash collateral. The tentative ruling is to authorize the use of cash collateral as set forth in the tentative ruling for calendar no. 6 (10/9/18 at 1:00 p.m.).

(b) Insider compensation. Local Bankruptcy Rule ("LBR") 2014-1(a)

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requires a notice and opportunity to object before any insider compensation is paid. But no such notice has been filed, and Debtor's Monthly Operating Report ("MOR") for the month ending 8/31/18 reflects payments to each of two insiders. Dkt. 34, at PDF p.8. The tentative ruling is to direct Debtor to serve the notice using the local form no later than 10/12/18.

(c) Bar date. On 9/5/18 this Court entered its "Order Setting Bar Date: November 9, 2018; and Directing Service by Debtor." Dkt. 24. The debtor failed to serve that order. Why? The tentative ruling is to issue an amended order setting a bar date as set forth below.

(d) MOR (dkt. 34). The MOR appears to be incomplete. For example, it refers to multiple accounts but appears to provide only a combined report; many of the entries are vague or have no description; and page one includes a reference to "Non DIP personal checking (see attached letter)" but no letter or any other explanation is attached. The tentative ruling is to set a deadline of 10/15/18 to file an amended MOR correcting these and any other deficiencies.

(e) Employment (dkt. 25). As highlighted by the objection of the United States Trustee ("UST") (dkt. 28), the parties should be prepared to address (a) the proposed \$12,000 flat fee under 11 U.S.C. 328 and (b) the source of the "loan" for \$10,000 of that fee (dkt. 25, p.8) and the source of the remaining \$2,000 plus the filing fee.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: See above. In view of Debtor's failure to serve the order (dkt.24), the tentative ruling is to issue an amended order setting a bar date of 12/28/18 and directing the debtor to serve that order no later than 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/6/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/4/18

Appearances required by counsel for the debtor and by the debtor(s) themselves.

- (1) Current issues. This Court has no issues to raise sua sponte.
- (2) Deadlines/dates. This case was filed on 8/2/18.
 - (a) Bar date: 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: file by 11/1/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 10/9/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Newark Special Technologies, Inc.

Represented By
Joseph L Pittera

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CONT... Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

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Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#1.00 Hrg re: Motion for Order Compelling Debtor to Appear at Continued § 341(a) Examination and for Order Authorizing Trustee to File Affidavit for Order Pursuant to Federal Rule of Bankruptcy Procedure 2005

Docket 186

Tentative Ruling:

Grant the motion insofar as directing Debtor to attend the meeting of creditors, either (i) in person on 3/6/19 at 10:00 a.m. or (ii) through a video appearance, at Debtor's expense and using technology and a time and place reasonably satisfactory to the Chapter 7 Trustee, and (iii) continue this hearing to 3/26/19 at 2:00 p.m. to address possible remedies if Debtor fails to appear, including whether to issue an order requesting and directing the United States Marshal or his designee to detain Debtor and compel his attendance. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Notice of the section 341(a) meeting of the creditors

Debtor asserts (dkt. 191, pp.4-5) that he did not receive proper notice of his obligation to attend the meeting of creditors (11 U.S.C. 341(a)) that originally was set for 1/17/19. First, Debtor does not appear to dispute that he had actual knowledge of the scheduled meeting, and he is charged with knowledge of the law establishing his duty to attend. See 11 U.S.C. 343. Second, as the Trustee's reply clarifies (dkt. 194), the Trustee is not seeking any remedy for Debtor's non-appearance at the initial meeting, but is seeking to address Debtor's preemptive assertion that he need not attend the continued meeting.

(2) Anticipated invocation of the 5th Amendment

Debtor asserts that "the Fifth Amendment will be broadly asserted at the 341 meeting." Dkt. 171, p.5:7-9. But, as explained in the Trustee's reply (dkt. 194), Mr. Layfield cannot assert a generalized right to invoke the 5th Amendment. He must appear and respond to the questions presented.

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CONT...

Philip James Layfield

Chapter 7

(3) Alleged expense or inconvenience of attending the continued section 341(a) meeting

Debtor requests (through his criminal attorney who seeks to appear specially) that the Trustee's motion be denied because he resides in Delaware (dkt. 191, p.3:28) and because his lawyer states that Debtor is indigent (dkt. 191, p.7, para. 7). There is no admissible evidence presented with the opposition. Nevertheless, this Court takes judicial notice that, on other occasions, Debtor himself has asserted that he lives in Delaware and that travelling to California would be costly in terms of time and money.

The parties are directed to address whether Skype or some other video service, or combination of audio and video, can be used to create a recordable record of the meeting (as contemplated at the start of this tentative ruling).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Philip James Layfield

Pro Se

Movant(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

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2:00 PM

2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#2.00 Hrg re: Motion of Chapter 7 Trustee to Approve Settlement Agreement with Debtor, Robert Brown, Allstar Financial Services, and Catherine Alzmann

Docket 100

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 4, 2/26/19 at 2:00 p.m.).

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Robert A Brown

Trustee(s):

Howard M Ehrenberg, Ch 7 Trustee

Represented By
Asa S Hami

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2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#3.00 Cont'd hrg re: Motion for Order Approving Compromise Between Robert Brown, The Law Offices of Robert A. Brown, and Acquiplied Assets, B.T.
fr. 11/6/18, 12/11/18, 1/8/19

Docket 52

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 4, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the status conference (calendar no. 7, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the status conference (calendar no. 6, 11/6/18 at 1:00 p.m.).

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Stephen L Burton

Trustee(s):

Howard M Ehrenberg, Ch 7 Trustee

Represented By
Asa S Hami

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2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#4.00 Cont'd Status Conference re: Chapter 7 Case
fr. 9/4/18,10/9/18, 11/6/18, 12/11/18, 01/08/19,
2/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motions to approve compromises (dkt. 52, 100)

Grant. *Proposed orders*: The Trustee is directed to lodge two proposed orders (one for each motion) via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Other issues

The parties are directed to address whether there are any other issues that need to be addressed at this status conference, or any future status conference. The tentative ruling is not to set any further status conferences in this case.

(2) Deadlines/dates. This case was filed on 7/30/18 and converted to chapter 7 on 10/10/18.

(a) Bar date: 11/7/18 (see dkt. 47, 51, and tentative ruling for 10/9/18, reproduced below).

(b) Plan/Disclosure Statement: N/A.

(c) Continued status conference: N/A (see above).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue as set forth below. Appearances are not required on 2/5/19.

(1) Current issues

This Court has reviewed the docket, and notes that a Motion to Approve Compromise Under Rule 9019 has been lodged (dkt. 100) and set for hearing. This Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 7/30/18 and converted to chapter 7 on 10/10/18.

(a) Bar date: 11/7/18 (see dkt. 47, 51, and tentative ruling for 10/9/18, reproduced below).

(b) Plan/Disclosure Statement*: N/A.

(c) Continued status conference: 3/5/19 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues

Both at the 11/6/18 hearing, and in a subsequent stipulation for a continuance (dkt. 92), the parties informed this Court that they were attempting mediation regarding a motion, filed by Debtor while it was still under the control of its principal, Mr. Brown, to approve a compromise that would provide for distribution of substantial funds to Mr. Brown. See 52, 61, 75, 81, 92, 94. The parties are directed to apprise this Court of the current status of their disputes.

(2) Deadlines/dates. This case was filed on 7/30/18 and converted to chapter 7 on 10/10/18.

(a) Bar date: 11/7/18 (see dkt. 47, 51, and tentative ruling for 10/9/18, reproduced below).

(b) Plan/Disclosure Statement*: N/A.

(c) Continued status conference: 2/5/19 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Continue to as set forth below, to be concurrent with the hearing on the motion to approve compromise (see dkt. 52, 92, 94). Appearances are not required on 12/11/18.

(1) Current issues

This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 7/30/18 and converted to chapter 7 on 10/10/18.

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(a) Bar date: 11/7/18 (see dkt. 47, 51, and tentative ruling for 10/9/18, reproduced below).

(b) Plan/Disclosure Statement*: N/A.

(c) Continued status conference: 1/8/19 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required.

(1) Current issues

(a) Debtor's motion to approve compromise (dkt. 52). There is no tentative ruling but the parties should be prepared to address the responses by Allstar and the Chapter 7 Trustee (see dkt. 61, 75) and Debtor's reply (dkt. 81).

(2) Deadlines/dates. This case was filed on 7/30/18 and converted to chapter 7 on 10/10/18.

(a) Bar date: 11/7/18 (see dkt. 47, 51, and tentative ruling for 10/9/18, reproduced below).

(b) Plan/Disclosure Statement: N/A.

(c) Continued status conference: 12/4/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/9/18:

Appearances required. The tentative ruling is to convert this case to chapter 7 pursuant to 11 U.S.C. 1112(b), due to the apparent conflicts of interest of the debtor's principal, Mr. Brown, with the interests of creditors. See Motion by UST (dkt. 39), Joinder by Allstar Fin. Svcs., Inc. (dkt. 62). Although Debtor asserts (dkt. 58) that a number of issues identified by the UST have been addressed, the opposition does not adequately address the alleged conflicts of interest. In addition, the issues identified in this Court's tentative ruling for 10/9/18 (reproduced below) have not been adequately addressed. In addition, this Court's order (dkt. 47) directed Debtor not to serve a notice of bar date and instead to serve a copy of that order itself, no later than 9/7/18, but Debtor disregarded that order and served its own notice (dkt. 51) on 9/16/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/4/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Failure to serve order. This Court's status conference order (dkt. 9, para.5, bolded text) directed counsel for the debtor to serve all creditors with a

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copy of the order. Why was it not served?

(b) Failure to comply with requirements for professionals. The debtor's status report (dkt. 45, p.4) states that neither the debtor's attorney nor any other professional intend to apply for employment because they do not intend to seek compensation during the case. That is not the test. They are required to apply for employment under 11 U.S.C. 327. In addition, the United States Trustee ("UST") has objected in its motion to dismiss (dkt. 39) that the person who claims to be acting as the debtor's bankruptcy attorney, Robert A. Brown, Esq., is also the debtor's CEO and General Counsel. The parties should be prepared to address the conflicts issues.

(c) Failure to comply with Chapter 11 requirements. See the UST's motion to dismiss (dkt. 39).

(d) Failure to comply with procedures for plan (dkt. 38) and disclosure statement (dkt. 37). As stated in this Court's status conferences order (dkt. 9), Judge Bason's posted procedures (available at www.cacb.uscourts.gov) establish procedures for any draft plan and disclosure statement. Counsel for the debtor has violated those procedures by mailing a copy of the drafts to creditors before this Court has approved such mailing.

In addition, those documents omit any meaningful liquidation analysis or disclosure of what could be paid to general unsecured creditors, instead opting for a flat 12% promised distribution (dkt. 38, at PDF pp.13-14). In addition, from the summary of assets and liabilities (dkt. 19) it appears that the debtor might have enough equity in property to pay far more than 12%, depending on the total amount of unsecured claims.

(e) Opaque "disclosures". The debtor's references to a sale of the "Marsh" property is not adequately explained. In addition, although the debtor's bankruptcy Schedule H (dkt. 1) asserts that there are no co-debtors, this Court questions whether that is so because business organizations typically have individual guarantors on any major debts.

(2) Deadlines/dates. This case was filed on 7/30/18.

(a) Bar date: 11/7/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement: TBD.

(c) Continued status conference: 10/9/18 at 1:00 p.m. No written status report is required.

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Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Stephen L Burton

Trustee(s):

Howard M Ehrenberg, Ch 7 Trustee

Represented By
Asa S Hami

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#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Payment of professional fees

The parties are directed to address the issues regarding cash collateral and the payment of professional fees. See Status Report (dkt. 758), p.6:1-17.

(b) Debtor's use of funds without authority and/or Church/Bird responsiveness to requests for use of funds

The parties are directed to address Debtor's "cash management" issues. See Status Report (dkt. 758), pp.6:18-7:23.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/2/19 at 2:00 p.m. with a *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 2:00 p.m. with a *brief* status report due 2/15/19.

Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required for the Status Conference (calendar no.6) but not for the other matters (the fee applications; calendar nos. 3, 4 and 5 on 1/15/19 at 1:00 p.m.). Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Garrison (Accountant) Fee Application (dkt. 743). Grant. Allow on a final basis \$29,910.40 in fees, and \$0 in expenses, for a total of \$29,910.40.

(b) Tilem (Debtor's Counsel) Fee Application (dkt. 739). Grant. Allow on an interim basis \$211,365.00 in fees and \$2,303.16 in expenses, for a total of \$213,668.16, with a 15% holdback on the fees.

(c) Levene, Neale (Creditors Committee Counsel) Fee Application (dkt. 738). Grant. Allow on an interim basis \$70,996.00 in fees and \$736.50 in expenses, for a total of \$71,732.50.

Proposed orders: Applicants are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Debtor's lack of payment of fees. The parties should be prepared to

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address Debtor's reported lack of payment of allowed interim fees.

- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)
 - (b) Plan/Disclosure Statement*: TBD.
 - (c) Continued status conference: vacate the current date of 1/29/19 at 2:00 p.m., and set a continued date of 2/26/19 at 2:00 p.m. with a *brief* status report due 2/15/19.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Instructions/Procedures").

(1) Current issues

This Court has reviewed the status reports filed by Debtor (dkt. 700) and the Agent (dkt. 701).

(a) Expand Kaplan Employment (dkt. 461, 480, 497, 505, 534, 575, 576). There is no tentative ruling, but Agent Dean Rallis should be prepared to apprise the Court of his current position on this motion.

(b) Further extension of exclusivity period (dkt. 685, 694, 695). Grant extension of the exclusivity periods to 3/15/19 to file a plan and 5/15/19 for a plan to be accepted under 11 U.S.C. 1121(c)&(d).

(2) Deadlines/dates. This case was filed on 3/6/18.

- (a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

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(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 1/29/19 at 2:00 p.m., with a *brief* status report due 1/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances are not required on 9/4/18.

(1) Current issues.

(a) Dissolution of "Oh Happy Day" (dkt. 544, 579, 583, 602). Grant, provided that all assets (tangible or intangible) in which Oh Happy Day, LLC currently has an interest must continue, after dissolution of that entity, to be administered by the Agent (to the full extent of any interest the debtor has in such assets). See Term Sheet (dkt. 547), section 6 (defining Agent Assets).

Proposed order: The debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Employment of Ballard, Rosenberg firm/Schwettmann as Special Counsel (dkt. 490, 532, 533, 546, 582). Continue to the same date and time as the continued status conference (set forth below), for the reasons set forth in the responses (dkt. 546, 582). In addition, no later than 10/2/18 the debtor is directed to file a supplement clarifying whether the proposed employment is of Mr. Schwettmann individually or his firm.

(c) Expand Kaplan Employment (dkt. 461, 480, 497, 505, 534, 575, 576). Continue to the same date and time as the continued status conference (set forth below), for the reasons set forth in the latest documents (dkt. 575, 576).

(2) Deadlines/dates. This case was filed on 3/6/18.

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- (a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)
- (b) Plan/Disclosure Statement*: TBD.
- (c) Continued status conference: 10/16/18, with a *brief* status report due 10/9/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

This court anticipates issuing or posting a tentative ruling at a later time.

Tentative Ruling for 8/3/18:

Appearances required. The tentative rulings are set forth below. In addition, the tentative ruling is to set a continued status conference on 8/16/18 at 10:00 a.m., or such alternative time as may be ordered at the hearing.

(1) Current issues.

(a) Motion to Confirm Dean Rallis as Agent (dkt. 536). Grant (approve the appointment of Dean Rallis, Esq. as Agent) under the Term Sheet, as amended (see below), and subject to the provisions of this Court's order approving the settlement (dkt. 528, paragraphs 3, 4, and 6-8). The tentative ruling to grant this motion is based on the representation in the motion (dkt. 536, p.9:5-9) that the parties who objected/reserved their rights to object have now consented to the appointment of Mr. Ralis. (This Court disregards the invective, *id.* n.3 & accompanying text.) If that is incorrect then this tentative ruling is subject to any opposition at the hearing (see OST, dkt. 538). This tentative ruling is also based on this Court's review of the other relevant documents. See dkt. 495 (selection of proposed agent), 528 (order approving settlement), 531 (objection), 535 (Committee support), 536 (motion), Application for Order Shortening Time (dkt.

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537, 540) and evidence of service (dkt. 541).

Proposed order: Counsel for the debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) 9019 Motion (see Term Sheet, dkt. 445, 528). This Court's Order (dkt. 528) approving Settlement directed the parties to prepare, sign and file a final version of the "Term Sheet" reflecting certain modifications. This Court notes that the debtor appears to have circulated a revised Term Sheet (dkt. 536, Ex.A) that incorporates the changes discussed on the record, although that revised Term Sheet is not "redlined" and this Court has not engaged in any line-by-line review of its terms. In any event, the parties are directed to provide a status report on when a declaration will be filed with this Court memorializing the fully executed final Term Sheet.

(c) Motion to Extend Time to Assume or Reject Lease (dkt. 457). The tentative ruling is to continue this motion to the date and time of the continued status conference, for the authorized Agent to consider and take a position on the merits of this motion.

Analysis: Although the debtor argues (e.g., in dkt. 534) that she is prejudiced by any lack of immediate decision on pending matters, the tentative ruling is that the debtor has not established undue prejudice because of (i) the debtor's own delay in selecting a nominee to be the Agent, (ii) the debtor's ability to engage in numerous other activities to attempt to turn around her finances without having to wait for those particular pending matters to be resolved, and (iii) the fact that, as this Court interprets the deadlines in the Term Sheet, "Approval" of the settlement did not occur until "entry" of an order approving the settlement (see dkt. 474, Ex.C, section 1, 1st paragraph, penultimate sentence), and the oral ruling was not entered on the docket, only the written order (dkt. 528) was entered, so the time of Approval (which commences the time for the debtor to perform various tasks under the Term Sheet) did not commence until entry of that written order on 7/25/18.

(d) Motion to Assume and Assign 1629 Griffith Lease (Presbytery) (dkt. 351). Continue to the date and time of the continued status conference, for the authorized Agent to consider the merits of this motion, for the same reasons as stated in section (1)(c) of this tentative ruling, above.

(e) Motion to Expand Scope of Kaplan Employment (dkt. 461, 480, 497, 505, 534). Continue to the date and time of the continued status conference, for the authorized Agent to consider the merits of this motion, for the same reasons

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as stated in section (1)(c) of this tentative ruling, above.

(f) Scheduling Conference re: Evidentiary Hearing on Motion to Assume 1356 Palmetto Lease (Bridge Tavern/Villain's) (dkt. 187). At the 7/18/18 hearing, this Court was informed that the proposed assignee/buyer had withdrawn. This Court subsequently issued an Order (dkt. 501) deeming the portion of the motion that sought to assign the lease moot and withdrawn, and continuing the portion of the motion that seeks to assume the lease to this hearing solely for scheduling further proceedings on this motion. The parties should be prepared to address a schedule for this motion and/or whether to continue the scheduling matters so that the Agent can determine whether or not to pursue this motion and related matters.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: Date and time set forth at the start of this tentative ruling. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/16/18:

Appearances required. The tentative rulings are set forth below. In addition, the tentative ruling is to set a continued status conference on 7/27/18 at 9:00 a.m., or such alternative time as may be ordered at the hearing.

(1) Current issues.

(a) 9019 Motion (see Term Sheet, dkt. 445). This Court will address the objections filed by Mr. Casanova (dkt. 465, 466) and The Presbytery of the

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Pacific (the "Presbytery") (dkt. 467) and the replies filed by the debtor (dkt. 472) and by the Archbishop/Institute and the Bird Nest (dkt. 474). Among other things, this Court will address whether the Term Sheet can be approved without the further documentation that is contemplated by the settling parties. In that regard, the parties should address the proposed amendment to paragraph 6 of the Term Sheet. See dkt. 474, Ex.C.

This Court expresses no present opinion on those issues. This Court is intentionally withholding any further tentative ruling on those matters so as not to disrupt potential settlement discussions among those parties, but if the parties have not agreed to the proposed amendment to paragraph 6 (or some other resolution) then this Court intends to provide a tentative ruling at the commencement of the hearing.

The parties are encouraged to meet and confer about the foregoing issues. If, at the end of the hearing, there are issues that remain to be addressed, then the parties should be prepared to address whether this Court should set a continued hearing on the date and time specified at the start of this tentative ruling or some other date.

(b) Stay relief motion (appellate litigation with Bird Nest and Archbishop/Institute) (dkt. 68). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(c) Exclusivity motion (dkt. 308, 348, 422). Continue to the date and time set forth at the start of this tentative ruling, and meanwhile extend exclusivity for the same amount of time, on the same terms and conditions as this Court's Prior Order (dkt. 422) - *i.e.*, no incurring of fees or expenses for plan-related work. This Court calculates that the extensions would be as follows: (i) The 120-day period specified in section 1121(c)(2) and (d)(1) (deadline for filing a plan) will be further extended from 8/15/18 (see dkt. 422) to and including 9/19/18, and (ii) the 180-day period specified in section 1121(c)(3) and (d)(1) (deadline for acceptance of plan by impaired classes) will be further extended from 10/15/18 (see dkt. 422) to and including 11/19/18.

(d) Cash Collateral motion (dkt. 5). Continue to the date and time set forth at the start of this tentative ruling, and meanwhile extend the interim authorized use of cash collateral through and including the conclusion of the continued hearing subject to the same terms and conditions as previously authorized by this Court (see dkt. 29, 79, 239, 244, 347, 413), if this motion is not mooted by the

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Dana Hollister

Chapter 11

disposition of the settlement motion.

(e) Bridge Tavern, LLC asset sale motion (dkt. 112). Continue to the date and time set forth at the start of this tentative ruling.

(f) Villain's Tavern reopening motion (dkt. 214). Grant. *Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(g) Trustee appointment motion (dkt. 332). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(h) Security Deposit refund motion (dkt. 350). Grant. *Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(i) Budget motion (dkt. 96). Extend the interim authorization through and including the date of the continued hearing and meanwhile approve the budget subject to the same terms and conditions as previously authorized by the Court (see dkt. 340), if this motion is not mooted by the disposition of the settlement motion.

(j) Claim objection (Bird Nest) (dkt. 292). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(k) Claim objection (Institute) (dkt. 296). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(l) Claim objection (Archbishop) (dkt. 294). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(m) Vehicle refinance motion (dkt. 216). Continue to the date and time set forth at the start of this tentative ruling, if this motion is not mooted by the disposition of the settlement motion.

(n) Vehicle relief from Stay motion (dkt. 349). The hearing on this motion has been vacated, and this matter is off calendar (see Adequate Protection Order, dkt. 444).

(o) Motion to Assume and Assign 1629 Griffith Lease (dkt. 351). Continue to the date and time set forth at the start of this tentative ruling.

(2) Deadlines/dates. This case was filed on 3/6/18.

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- (a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)
- (b) Plan/Disclosure Statement*: TBD.
- (c) Continued status conference: Date and time set forth at the start of this tentative ruling. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/22/18:
Appearances required.

(1) Current issues.

(a) Urbanlime/Haro employment (dkt. 93, 253), Bridge Tavern (Villain's) Reopening Motion (dkt. 214, previously granted, dkt. 339, but rescheduled per dkt.369 para. 4.5), Sale Motion (dkt. 112, temporarily denied, dkt. 369, 385) and Lease Assignment Motion (dkt. 187, re-set for hearing, dkt. 388). The parties should be prepared to address the issues set forth in this Court's orders (dkt. 369, 378, 385, 388) setting this hearing.

(b) Motion to extend exclusivity (dkt. 308, 312, 333, 348). The tentative ruling is to preserve the status quo by:

(i) prohibiting the estate from incurring any fees or expenses relative to any contemplated plan between time this tentative ruling is posted and the conclusion of the hearing on the motion to appoint a trustee (dkt. 332, the "Trustee Motion"), currently scheduled for 7/10/18 at 2:00 p.m;

(ii) if the Trustee Motion is denied, then extending exclusivity through at least 8/14/18 (any further extension will be addressed at the hearing on 7/10/18 at 2:00 p.m.), so that Mr. Tilem will have the time he has stated he would need to draft a plan (approximately 30 days); and

(iii) if the Trustee motion is granted, then terminate exclusivity.

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(c) Cash collateral motion (dkt. 5, 14, 15, 29, 74, 151, 152, 163, 164, 167, 168, 171, 172, 176, 185, 244). The tentative ruling is to continue this matter to 7/10/18 at 2:00 p.m., and meanwhile authorize the continued use of cash collateral through the conclusion of that continued hearing.

(d) Relief from stay motion (dkt. 68, 79, 141, 147, 154, 162, 222 section v., 270, 312). The tentative ruling is to continue this matter to 7/10/18 at 2:00 p.m.

(e) Expansion of Insul employment (dkt. 305). Please see calendar no. 2 (6/22/18 at 10:00 a.m.).

(f) Hearings on 7/10/18. Some matters in this case have been self-calendared for 7/10/18 at 1:00 p.m. The tentative ruling is that all matters set for 7/10/18 in this case will be heard at 2:00 p.m.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served on 6/19/18 per dkt. 383)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/10/18 at 2:00 p.m., status report due 7/5/18 at noon.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

This court anticipates posting a tentative ruling at a later time. **[Note: no further tentative ruling was posted.]**

Tentative Ruling for 5/7/18:

[See Memorialization of Tentative Rulings for 5/7/18 (dkt. 234, 236, 238, 239)]

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Tentative Ruling for 5/3/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The only issue this Court intends to address is a continued hearing date in view of the last-minute papers that were filed, to fit the parties' and this Court's own needs.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

Appearances required by counsel for the debtor. Other parties in interest are invited but not required to appear.

Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Cash flow and cash collateral motion (dkt. 5, 14, 15, 29). This Court's written order (dkt. 29) erroneously lists the continued hearing as 3/20/18 instead of 4/17/18 at 2:00 p.m., as orally ordered at the hearing on 3/9/18. Nevertheless, it is appropriate in connection with this Status Conference to address the debtor's current and projected cash flow and related issues.

This Court was not persuaded at the hearing on 3/9/18 that the debtor can generate positive cash flow. The debtor is directed to provide a brief update on any plans to generate positive cash flow from her various businesses and properties. It is also appropriate for other parties in interest to address whether there has been adequate disclosure to date regarding the finances of those businesses and properties. The debtor is cautioned that the declaration due on

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3/27/18 must provide comprehensive disclosures regarding those businesses and properties: if the debtor cannot show reasonable prospects for positive cash flow within a reasonable time then this Court might have to grant relief from the automatic stay (upon a proper motion), or convert or dismiss this bankruptcy case, at least if the debtor does not abandon unprofitable businesses or properties.

(b) Employment applications. The parties should be prepared to address the oppositions (dkt. 56, 57) and the direct and indirect source(s) of funds used by the debtor to pay prepetition retainers (see dkt. 48, *and cf.* dkt. 9, p.6, dkt. 18, p.8, dkt. 20, p.8 - blank spaces instead of disclosure), including when the liens against the 1902 property arose (dkt. 48, Ex.A). In addition, the parties should be prepared to address the following issues:

(i) Proposed bankruptcy counsel - Tilem (dkt. 9, 10): (i) Why were resumes for associates, paralegals, and persons who are "of counsel" to the firm not included? (ii) Has counsel waived or amended the provisions in the retainer agreement regarding the "evergreen" retainer; "overtime" rates, and any attorney's lien? (iii) As for proposed out-sourcing, counsel must address whether employment of such counsel could result in imputed or actual conflicts of interest from any work performed by such attorneys for their own clients or for other law firms.

(ii) Proposed special counsel: the Robins firm and Horvitz firm (dkt. 18, 19, 20, 21). The hourly rates of proposed counsel at the Robins firm and Horvitz firm are substantially greater than those for the debtor's proposed general bankruptcy counsel and the Snyder firm. How will the debtor - acting as a debtor in possession with the duties of a trustee for the benefit of creditors - assure that the potential benefits are not outweighed by the costs that can be reasonably anticipated in connection with the ongoing litigation with Birds Nest, the Archbishop, and the Institute (as those terms are defined in the parties' papers)?

(iii) Proposed special counsel: the Snyder firm (dkt. 36, 37). (i) What is the nature of the litigation in which that firm represents the debtor and co-plaintiff, Bridge Tavern, LLC against Odysseuss Investment Group, LLC? (ii) What are the potential costs/risks and benefits? (iii) Is there any actual or potential conflict of interest between the two plaintiffs (e.g., if any judgment in their favor were to be allocated between them in a way that is unfavorable to one or the other)? (iv) From the description at the status conference on 3/9/18 it seemed that the Snyder firm might be assisting the debtor now or in future in

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transactional matters - is that so?

Chapter 11

- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: TBD
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 4/17/18 at 2:00 p.m., status report due 4/3/18. (see order, dkt. 30).
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/9/18:

[no tentative ruling was posted for this hearing]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

Adv#: 2:18-01057 Riverwood Gas and Oil LLC v. Bureau of Land Management

#6.00 Cont'd hrg re: Motion to Dismiss the Second Amended Complaint
fr. 10/2/18, 12/4/18, 12/18/18, 01/15/19

Docket 36

Tentative Ruling:

Tentative Ruling for 2/26/19

Please see the tentative ruling for the case status conference (calendar no. 10, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 10/2/18

Please see the tentative ruling for the case status conference (calendar no. 4, 10/2/18 at 2:00 p.m.).

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Bureau of Land Management

Represented By
Kevin P VanLandingham

Movant(s):

Bureau of Land Management

Represented By
Kevin P VanLandingham

Plaintiff(s):

Riverwood Gas and Oil LLC

Represented By
Luis A Solorzano
Giovanni Orantes

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2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

Adv#: 2:18-01057 Riverwood Gas and Oil LLC v. Bureau of Land Management

#7.00 Cont'd Status Conference re: Complaint for Damages, Declaratory Relief and Injunctive Relief for: (1) Violation of Automatic Stay; and (2) Turnover Under 11 U.S.C. § 542 fr. 05/08/18, 06/26/18, 09/18/18, 10/2/18, 12/4/18, 12/18/18, 1/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19

Please see the tentative ruling for the case status conference (calendar no. 10, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 10/2/18

Please see the tentative ruling for the case status conference (calendar no. 4, 10/2/18 at 2:00 p.m.).

Tentative Ruling for 5/8/18

Please see the tentative ruling for the case status conference (calendar no. 10, 5/8/18 at 2:00 p.m.).

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Bureau of Land Management

Represented By
Kevin P VanLandingham

Plaintiff(s):

Riverwood Gas and Oil LLC

Represented By

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Luis A Solorzano
Giovanni Orantes

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2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

Adv#: 2:17-01326 Riverwood Gas and Oil LLC v. Western States International et al

#8.00 Cont'd Status Conference re: Complaint 1) Breach of Written Contract; 2) Breach of Implied Contract and Fair Dealings; 3) Interfering with Economic Relationship; 4) Slander of Title; 5) Quiet Title; 6) Declaratory Relief
fr. 8/22/17, 11/14/17, 1/23/18, 02/13/18, 03/06/18, 4/17/18, 5/8/18, 6/26/18, 9/18/18, 10/2/18, 12/4/18, 12/18/18, 1/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the case status conference (calendar no. 10, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 10/2/18:

Please see the tentative ruling for the case status conference (calendar no. 4, 10/2/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the case status conference (calendar no. 9, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 5/8/18:

Please see the tentative ruling for the case status conference (calendar no. 10, 5/8/18 at 2:00 p.m.).

Tentative Ruling for 4/17/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 7, 4/17/18 at 2:00 p.m.).

Tentative Ruling for 3/6/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 11, 3/6/18 at 2:00 p.m.).

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CONT... Riverwood Gas and Oil LLC

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Tentative Ruling for 2/13/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 4, 2/13/18 at 2:00 p.m.).

Tentative Ruling for 1/23/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 8, 1/23/18 at 2:00 p.m.).

Tentative Ruling for 11/14/17:

Appearances required. The tentative ruling is to deny the motions for default judgments, without prejudice, for the reasons set forth below, and to set a continued status conference for 1/30/18 at 2:00 p.m.

On the one hand, there appears to be successful prosecution of this adversary proceeding because, according to the plaintiff's status report (adv. dkt. 92), all of the defendants have either agreed to the requested declaratory relief or have defaulted. On the other hand, there are some fundamental issues that appear to prevent this court from granting default judgments at this time.

(1) Self-calendaring error. The motions for default judgments were only served on 10/27/17. See, e.g., Motion for Default Judgment Derek Wilshee (dkt. 83, 74) (collectively, the "Wilshee Default Motion"). That is insufficient time prior to the hearing, under the applicable rules, nor was there any cover notice of the hearing date and deadline for any opposition or response.

(2) Jurisdictional issues.

(a) Personal jurisdiction. Does the complaint adequately establish personal jurisdiction over each defendant? At least one defendant is alleged to be a resident of Australia (dkt. 1, para. 14), although the plaintiff has voluntarily dismissed claims against that defendant (dkt. 107). Are each of the defaulting defendants subject to personal jurisdiction?

(b) Subject matter jurisdiction, and abstention. The complaint and motions for default judgment make somewhat vague assertions of other action(s) that were or are pending in other courts apparently involving the same subject matter, and involving at least preliminary injunctive relief if not other relief. Can

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this Bankruptcy Court assume jurisdiction over matters that are pending in other courts? Must or should this Bankruptcy Court abstain?

(3) Allegations of wrongdoing. Where is the analysis tying each of the defaulting defendants to one or more of the specific acts of wrongdoing bringing them within the claims in the complaint? For example, the only allegation in the complaint regarding Mr. Wilshee (dkt. 1, para. 14) appears to be that he was at one time an officer of the debtor. How is that an act of wrongdoing?

The Wilshee Default Motion seeks a default judgment against Mr. Wilshee of \$431,472,300.00 (dkt. 74, at PDF p.51 of 53). How is he responsible for such alleged damages? Does the complaint need to be amended to establish, as against one or more of the defaulting defendants, how they are alleged to be liable?

(4) Calculation of damages. An exhibit to the plaintiff's motions for default judgments asserts that "Based on Department of Conservation Records [available on a website and/or verified by whom?], these leases [which leases? the ones that allegedly were supposed to be assigned but were not?] were producing 1730 barrels of Oil a day [when?]" and "[w]ith today's technology [how is today's technology better?], a conservative figure would be 3500 barrels a day [based on whose expert opinion?] that will be used as a figure for all the losses caused by Western States International [how about other defendants?]." Dkt. 83, Ex.A, at PDF p.17 of 53. The same exhibit shows a calculation of alleged damages based on "Approx Production" of "105,000" which is far more than 3500 barrels (perhaps using a 30-day presumptive month multiplied by 3500 barrels a day?), an "Average Oil Price [from what source?]," and a "Cost [to extract, market, refine, deliver, and sell the oil - or some other or different set of things? based on what expert's opinion?]." Based on the foregoing questions, and applying Rule 55(b)(2) (Fed. R. Civ. P.) (incorporated by Rule 7055, Fed. R. Bankr. P.), it appears that additional evidence and a "prove up" hearing will be needed to determine the amount of damages, if not other issues.

(5) Alleged costs, attorney fees, and interest. The debtor/plaintiff asserts \$1 million in costs (dkt. 74 at PDF p.51 of 53) - how is that possible? What are the components? Attorney fees are alleged to be \$300,000 - this case has barely commenced, so how is that possible? Where are the daily time sheets and/or

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other support for this figure? Prejudgment interest is alleged to be at a 10% rate per year starting 1/1/11. What is the contractual or statutory basis for that interest rate and that commencement date? The purported damages were incurred month by month, so how can interest run from before those damages were incurred?

(6) Declaratory relief. The plaintiff makes broad allegations about the rights under various contracts, or arising from breaches of those contracts or by operation of law. Where is the support for these allegations? The plaintiff cannot place the burden on this court to sort through numerous provisions of various contracts to piece together the plaintiff's theory. The plaintiff must provide specific, easy-to-follow analysis and evidence.

(7) Conclusion. Because the motions for default judgments are both procedurally and substantively deficient in all of the ways set forth above, the tentative ruling is to deny them without prejudice.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/22/17:

Appearances required. This court notes that the parties were directed to file a joint status report two weeks in advance of this hearing (dkt. 2), but have not done so. In addition, this court notes that the tentative ruling in the main case status conference (calendar no. 3, 8/22/17 at 2:00 p.m.) is to dismiss the main case, which normally would terminate this adversary proceeding. Nevertheless, to preserve all rights in the event that this court were to be persuaded not to dismiss the main case, this court has reviewed the other filed documents and records in this adversary proceeding and issues the following tentative ruling.

(1) Venue/jurisdiction/authority.

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The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below?

(3) Deadlines: This adversary proceeding has been pending since 6/19/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 1/12/18

Expert(s) - deadline for reports: 1/26/18

Expert(s) - discovery cutoff (if different from above): 2/9/18

Dispositive motions to be heard no later than: 3/2/18

Joint Status Report: 11/28/17

Continued status conference: 12/12/17 at 11:00 a.m.

Trial deadlines to be determined at a later time.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Riverwood Gas and Oil LLC

Chapter 11

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Phoenix Oil Gas Inc.

Pro Se

JNDDC, LLC.

Pro Se

Flavio M. Rodriguez

Pro Se

Longbow LLC.

Represented By
D Max Gardner

Leonard Kroyton

Pro Se

Glenn Morinaka

Pro Se

James Robert Zadko

Pro Se

Derek Wilshee

Pro Se

Michael Smushkevich

Pro Se

DOES 1 through 10, inclusive

Pro Se

David Smushkevich

Pro Se

Alex Gendelman

Pro Se

Tatyana Grukchina

Pro Se

United Pacific Energy Operations

Pro Se

Charles Ross

Pro Se

Tearlach Resources (California) LTD

Pro Se

Gas and Oil Technologies, Inc.

Pro Se

United Pacific Energy Corporation

Pro Se

Ingrid Aliet-Gass

Pro Se

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Western States International

Represented By
Mitchell E Rishe

Paul Guiller

Pro Se

Plaintiff(s):

Riverwood Gas and Oil LLC

Represented By
Mike Montes

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#9.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 5/1/18, 5/8/18, 6/26/18, 9/18/18, 10/2/18,
12/4/18, 12/18/18, 1/15/19

INGRID ALIET-GASS
vs
DEBTOR

Docket 130

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the case status conference (calendar no. 10, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 10/2/18:

Please see the tentative ruling for the case status conference (calendar no. 4, 10/2/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the case status conference (calendar no. 9, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 5/8/18:

Please see the tentative ruling for the case status conference (calendar no. 10, 5/8/18 at 2:00 p.m.).

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, February 26, 2019

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Chapter 11

Mike Montes
Luis A Solorzano

Movant(s):

Ingrid Aliet-Gass

Pro Se

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2:16-25483 Riverwood Gas and Oil LLC

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#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/29/16, 12/13/16, 1/10/17, 2/7/17, 4/4/17,
5/2/17, 06/13/17, 7/11/17, 8/22/17, 11/14/17,
1/23/18, 02/13/18, 03/06/18, 4/17/18, 5/8/18,
6/26/18, 9/18/18, 10/2/18, 12/4/18, 12/18/18,
1/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 2/26/19:
Appearances required.

(1) Current matters

At the hearing on 10/2/18 this Court heard oral argument on the motion of the Bureau of Land Management ("BLM") to dismiss Debtor's adversary proceeding ("*Debtor v. BLM*," Adv. No. 2:18-ap-01057-NB). This Court took the matter under submission and continued the various related matters in this case to 12/4/18, and then (for this Court's own scheduling needs) to 12/18/18 (dkt. 167), and then (based on the partial shutdown of the U.S. government) to 2/26/19 (*Debtor v. BLM* adv. dkt. 44, 46).

(a) Current status and tentative rulings

This Court anticipates, prior to this 2/26/19 hearing, finalizing and issuing a Memorandum Decision granting the BLM's motion to dismiss the *Debtor v. BLM* adversary proceeding, without leave to amend. Based on that ruling, Debtor will not have any interest in the subject leases. The tentative ruling is that this moots the related matters:

(i) Debtor v. Western States Int'l et al.

Debtor's adversary proceeding against other parties in interest that essentially seeks to clear Debtor's title to the leases ("*Debtor v. Western States Int'l, et al.*," Adv. No. 2:17-ap-01326-NB); and

(ii) R/S Motion (dkt. 130)

Ms. Aliet-Gass's motion for relief from the automatic stay to proceed with pending litigation in State Court, in which she essentially seeks to assert the

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alleged interests of Western States Int'l against Debtor.

Accordingly, the tentative ruling is (x) to stay the foregoing related matters for a period of not less than 14 days after entry of this Court's order dismissing the *Debtor v. BLM* adversary proceeding, (y) if there is an appeal from that order, to extend such stay during the pendency of any appeal and subsequent proceedings on that order, and (z) if there is no appeal, dismiss this bankruptcy case and all pending adversary proceedings and contested matters. *This Court will prepare* the orders granting the BLM's motion to dismiss and the orders staying the related proceedings.

The parties should be prepared to address whether any additional procedural issues need to be addressed.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 3/26/19 at 2:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no written tentative ruling, but this Court may give oral tentative rulings at the start of the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Continue all matters in this case that are set for today to 10/2/18 at 2:00 p.m., *sua sponte*. Appearances are not required on 9/18/18.

Tentative Ruling for 6/26/18:

Continue (1) the Status Conference and (2) the motion of Ms. Aliet-Gass for relief from the automatic stay to 9/18/18 at 2:00 p.m. to be concurrent with related hearings. Appearances are not required on 6/26/18.

Tentative Ruling for 5/8/18:

This court anticipates posting a tentative ruling at a later time. [NOTE: no tentative ruling was posted]

Tentative Ruling for 4/17/18:

Continue (1) calendar nos. 5, 6 and 7 on today's calendar, and (2) the motion for relief from the automatic stay filed by Ingrid Aliet-Gass for herself and Western States International, Inc. (dkt. 130, the "R/S Motion") all as set forth below. Appearances are not required on 4/17/18.

Specifically, the tentative ruling is as follows:

(1) Continue (a) the status conference in this bankruptcy case, (b) the status conference in adversary proceeding no. 2:17-ap-01326-NB, and (c) the debtor's motion to amend the complaint in that adversary proceeding (adv. dkt. 125, and see adv. dkt. 130, 131, 139, 142) to be concurrent with (d) the motion by the Bureau of Land Management ("BLM") to dismiss the separate adversary proceeding against it (no. 2:18-ap-01057-NB, adv. dkt. 7), which is currently scheduled for 5/8/18 at 2:00 p.m.

(2) Continue the R/S Motion, which is currently set for 5/1/18 at 10:00 a.m., to the same date and time.

After this hearing date this Court will prepare an order continuing all of the foregoing matters and will serve it on the BLM, Aliet-Gass, and Western States

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International, Inc. at the addresses known to this Court, and that order will also direct the debtor to serve those parties and any other known parties with an interest in the foregoing matters.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: see above.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required.

(1) Current issues.

(a) Default judgment motion - Wilshee (adv. dkt. 140). Deny for lack of service. See dkt. 140 at PDF p.4 (serving defendant at "ENTER ADDRESS HERE").

(b) Default judgment motion - JNDDC, LLC (adv. dkt. 135). Deny for lack of service. See dkt. 135, last two pages (defendant not listed in service list).

(c) Default judgment motion - Flavio Rodriguez (adv. dkt. 133). Deny for lack of service. See dkt. 133 at PDF p.8 (marked up by someone - movant? - to show deficiencies in completion of proof of service) *and* dkt. 133 last two pages (defendant not listed on service list).

(d) Default judgment motion - Jag Pathirana (adv. dkt. 134). Grant. It appears that plaintiff has abandoned claims against defendant Jag Pathirana other than "clearing title" to the plaintiff/debtor's alleged property interests at

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issue in the complaint. That appears to moot the relevant concerns previously raised by this court (see adv. dkt. 116, exhibit).

(e) Case status report (case dkt. 122) and adversary proceeding against Bureau of Land Management (Adv. No. 2:18-ap-01057-NB). The debtor should be prepared to provide an update as to the status of these matters.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/10/18 at 2:00 p.m., *brief* status report due 4/3/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status Reports (main case dkt. 122; adv. no. 2:17-ap-01326-NB, dkt. 132). The debtor/plaintiff suggests that it will be filing a motion to approve a disclosure statement. Is that premature, given the following issues?

(b) Motion to amend complaint (adv. dkt. 125). The parties should be prepared to address the issues raised in the motion and in the oppositions filed by the California Department of Conservation, Division of Oil and Gas, and Geothermal Resources ("DOGGR") (adv. dkt. 125, 130, 131).

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In addition, the debtor/plaintiff should be prepared to address whether the proposed amended complaint cures the deficiencies in the original complaint, and whether any ruling on the motion to amend the complaint should be deferred until after default judgments are (or are not) obtained on the existing (original) complaint, for the reasons set forth in this Court's Memorialization Of Reasons For Denying Motions For Default Judgments (captioned for the adversary proceeding but erroneously filed in the main case as dkt. 118). See also Order denying prior motions for default judgments (adv. dkt. 117) and subsequent Motions for default judgments (adv. dkt. 133, 134, 135).

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: initial date of 7/10/17 (order timely served, dkt. 56, 60, 103, 111, 121, 123); supplemental date of 1/26/18 (order served late, but the tentative ruling is to excuse that lateness, dkt. 107, 110).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/20/18 at 2:00 p.m., status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue the status conferences in both the main case and the adversary proceeding (adv. no. 2:17-ap-01326-NB) to 2/13/18 at 2:00 p.m. with a status report due 2/6/18 (at which time other documents are also due as set forth below) for the reasons set forth below. Appearances are not required on 1/23/18.

(1) Current issues

(a) Reasons for continuance: (i) because of the problems noted below; (ii)

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because of the debtor's untimely last-minute filing of status reports (the debtor is cautioned that continued untimely filings may result in sanctions); (iii) because of the inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government, (iv) to be concurrent with the (improperly self-calendared) motion to amend the complaint, and (v) in view of the debtor's various status reports (main case dkt. 117, adv. dkt. 122, 127, 129).

(b) Bar date. The debtor's proofs of service of the bar date order are missing exhibits and incomprehensible (see dkt. 110, 111). The debtor is directed to file, no later than 2/6/18, either a corrected proof of service or an application (supported by a declaration) to set yet another supplemental bar date - whichever is appropriate.

(c) Status of existing complaint in adversary proceeding. On 11/20/17 this court issued an order (adv. dkt. 117) denying the plaintiff/debtor's motions for default judgments, without prejudice. The debtor now seeks to amend the complaint (adv. dkt. 125). All of these things moot the motions for default judgments so the hearings on those motions have been vacated.

In addition, the tentative ruling is to memorialize this court's reasons for denying the motions for default judgments by filing on the docket a copy of this court's adopted tentative ruling for the 11/14/17 hearings on those motions (reproduced within the tentative ruling for calendar no. 9. 1/23/18 at 2:00 p.m.).

(d) Motion to amend complaint (adv. dkt. 125). This motion was self-calendared for 2:00 p.m. (a time that cannot be used for self-calendaring) on 2/13/18. Nevertheless, the tentative ruling is to permit that motion to proceed at that time.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: initial date of 7/10/17 (order timely served, dkt. 56, 60); supplemental date of 1/26/18, to be served no later than 11/15/17 (per Order, dkt. 107) but proofs of service are incomprehensible (dkt. 110, 111) - see above under "current issues".

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: as set forth above.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the following issues.

(1) Current issues. The debtor has filed a second (very belated) proof of service (dkt. 103) of this court's order (dkt. 56) setting a bar date. Under that order the bar date was set as 7/10/17 and service was required no later than 5/8/17. What does the debtor's belated service do except cause confusion? Does the debtor require a new bar date for previously unknown creditors?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date: 7/10/17 (order timely served, dkt. 56, 60; but see above under "current issues").

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 1/30/18 at 2:00 p.m., status report due 1/16/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/22/17:

The tentative ruling is to dismiss this case with a 180 day bar for willful failure to appear in proper prosecution, as set forth below. See 11 U.S.C. 109(g)(1). Appearances are not required.

Reasons: This case was filed on 11/23/16. The debtor's assets consist of disputed rights in hydrocarbon leases. See Status Report, dkt. 81. Realizing any value from those rights apparently depends on retaining special counsel who will diligently prosecute the debtor's claims. Despite numerous opportunities, the debtor has failed to satisfy the prerequisites for retention of special counsel.

(1) Inadequate declarations about "connections"

At the hearing on 7/11/17 this court extensively reviewed the evidence that would be required before this court could approve the application to employ the latest proposed special counsel, Mr. Montes. That included a requirement of detailed declarations from Mr. and Mrs. Hoats regarding any transfers of any property (including intangible property) involving the debtor and any of them, as well as any other "connections" (as that term is used in Rule 2014, Fed. R. Bankr. P.) to the debtor and any other party in interest.

This court recognizes that Mr. and Mrs. Hoats are not the professionals whose employment is being sought. Nevertheless, given their very close ties to the debtor, and their failure to disclose connections to the prior proposed special counsel that raised questions about conflicts of interest, this court orally ordered the debtor to provide their declarations at the hearing on 5/2/17. That order has been ignored.

(2) Knudsen factors

This court also directed Mr. Montes to file a declaration addressing the factors that this court must consider in assessing his request to be paid more frequently than once every 120 days. See *In re Knudsen*, 84 B.R. 668, 672-73 (9th Cir. BAP 1988). Mr. Montes has filed such a declaration (dkt. 82) and has adequately summarized the factors (*id.*, p.3:15-23) but he has not adequately addressed the third factor, which he summarizes as: "any funds paid but later disapproved by the court can be recovered from the professional" in one or more of the ways listed in *Knudsen*. (Emphasis added.) Those ways are:

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- [a. Holdback] retainer payments are for only a percentage of the amount billed so that the likelihood or necessity of repayment is minimal [Mr. Montes suggests a 10% holdback, which has not been shown to be adequate - the typical amount is 20%, and that typically applies only to well established firms whose ability to repay funds is reinforced by the firm's longevity and reputation or similar considerations];
- [b. Bond] counsel can post a bond covering any possible reassessment [Mr. Montes has not addressed this factor];
- [c. Financial ability to repay] counsel's financial position makes it certain that any reassessment can be repaid [Mr. Montes has not addressed this factor]; [and/or]
- [d. Hold funds in trust account] funds paid prior to allowance are held in a trust account until a final or interim fee allowance is made [Mr. Montes has only offered to place the 10% proposed holdback in a trust account]. [*Knudsen*, 84 B.R. 668, at 672]

(3) The debtor appears to cite the wrong statutory authority

The debtor's application to employ Mr. Montes (dkt. 65) requests that his employment be approved under subsection "(e)" of 11 U.S.C. 327. But that subsection only applies by its terms to an attorney who "has represented the debtor" (*i.e.*, prepetition counsel whose employment is to continue postpetition). *Id.* (emphasis added).

That is not the end of the analysis, because it has been held that special counsel can be employed even when such counsel has not represented the debtor prepetition. See *In re Fondiller*, 15 B.R. 890, 892 (9th Cir. BAP 1981) (emphasis added), *appeal dismissed*, 707 F.2d 441 (9th Cir. 1983). Although *Fondiller* has been interpreted as authorizing employment under subsection (e) (see, e.g., *Covenant Fin. Group of Am., Inc.*, 243 B.R. 450, 455 & n. 8 (Bankr. N.D. Ala. 1999)), the precise holding of *Fondiller* appears to be that special counsel can be employed under subsection "(a)" of Section 327 because any "omission" in subsection "(e)" does not limit the general authority in subsection "(a)." See *Fondiller*, 15 B.R. at 891-92 (interpreting § 327(a) by comparison with §§ 327(c) and (e)).

True, the precise statutory authority appears to make little if any practical difference, because *Fondiller* held that when counsel is only employed to perform limited services, then an interest "adverse to the estate" means "an adverse interest relating to the services which are to be performed by that attorney," which appears to mean that the inquiry for proposed special counsel under subsection

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"(a)" is the same as under subsection "(e)." *Fondiller*, 15 B.R. at 892 (emphasis added). Mr. Montes' declaration (included in dkt. 65) appears to meet this test because he states that he has no adverse interest.

Nevertheless, as stated above this court has required additional evidence from Mr. and Mrs. Hoats and that evidence has not been provided. In addition, because the debtor has sought authority under subsection "(e)" instead of "(a)" it appears not have met the technical requirements for employment of Mr. Montes.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/11/17:

Appearances required.

(1) Current issues

(a) Employment of special counsel. Deny the application to employ the Law Offices of M. Brian McMahon (dkt. 46) because he no longer intends to pursue employment. See dkt. 73, para. 3. Deny the application to employ the Law Offices of Mike Montes, Jr. (dkt. 65) due to the failure to address the issues raised by this court in the tentative ruling for 5/2/17 (reproduced below) (without reaching the issues raised by the U.S. Trustee's objection, dkt. 72, and the debtor's reply, dkt. 74). The U.S. Trustee is directed to lodge proposed orders denying each application within seven days after this hearing date.

(b) Lack of progress. Should this case be dismissed for lack of prosecution?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date: 7/10/17 (order timely served, dkt. 56, 60).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/22/17 at 2:00 p.m., status report due 8/15/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then

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you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/13/17:

Continue to 7/11/17 at 1:00 p.m. to allow the debtor time to prosecute an employment application regarding Mr. Motes (see debtor's case status report, dkt. 62). Appearances are not required on 6/13/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/2/17:

Appearances required. There is no tentative ruling, but the debtor's proposed attorney, Brian McMahon Esq., should be prepared to address the concerns set forth in the U.S. Trustee's objection (dkt. 49) and the other issues set forth below.

(1) Current issues.

(a) Proposed special counsel.

(i) Background. On 4/5/17 the debtor filed an application for authority to employ the law offices of Mr. McMahon as special counsel under 11 U.S.C. 327(e) (dkt. 47). On 4/12/17 the United States Trustee ("UST") filed an objection to the employment application, which expressed concerns about the payment arrangement proposed in the application (dkt. 49).

The debtor filed a statement of disinterestedness for Mr. McMahon (dkt.53), and a reply (dkt.55), stating that a third party, Ms. Lilian Hoats, will be paying the attorney fees for Mr. McMahon's representation. Ms. Hoats is the CEO of Inviron Technologies, Inc. ("Managing Member"), which is the debtor's managing member (dkt. 55, Ex.1, p.1, recital "b"). Attached to the reply (dkt. 55, Ex.1) is a written document that purports to be a waiver of conflicts (if any exist) among the debtor, Ms. Hoats, and the Managing Member (the "Hoats/Managing Member Conflict Waiver").

The Attorney-Client Retainer Agreement attached to the employment application (dkt. 46, Ex.1) provides that Mr. McMahon is representing not only the debtor but also its affiliates Riverwood Energy, LLC ("Energy Affiliate") and

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Riverwood Resources Ltd. ("Resources Affiliate"). This court is not aware of the precise organizational and contractual relationships among the debtor, Energy Affiliate, and Resources Affiliate, nor of any written document purporting to be a waiver of conflicts (if any exist) among them.

(ii) Statutory provisions and rules

Although special counsel does not have to be "disinterested" (compare 11 U.S.C. 327(a)), special counsel still must not "represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed." 11 U.S.C. 327(e) (emphasis added). Under Rule 2014 (Fed. R. Bankr. P.) both Mr. McMahon and the debtor were supposed to disclose all connections between Mr. McMahon and "the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee."

The disclosures have not been adequate. This court does not know enough about the underlying litigation and the organizational and contractual relationships among the various entities to assess whether there may be conflicts of interest between the debtor, on the one hand, and Ms. Hoats, Managing Member, Energy Affiliate, and/or Resource Affiliate.

(iii) A DIP's conflicts generally cannot be waived

Any purported conflict waiver probably cannot waive actual conflicts. See, e.g., *In re Perry*, 194 B.R. 875, 880 (E.D. Cal. 1996) (waiver of conflict by non-debtor parties was insufficient and "[i]nformed consent could not be obtained" because "the real parties in interest in this case are the creditors, and that is not a waivable conflict"); *In re B.E.S. Concrete Products, Inc.*, 93 B.R. 228, 235 (Bankr. E.D. Cal. 1988).

But while actual conflicts of interest create a violation of 11 U.S.C. 327 which would require disqualification of the proposed professional, the mere existence of a potential conflict of interest does not require disqualification, and it is up to the court's discretion whether the purported conflict is sufficiently threatening to the estate to warrant disqualification. *In re Wheatfield Business Park, LLC*, 286 B.R. 412, 421 (Bankr. C.D. Cal. 2002).

Are proposed counsel and the debtor aware of any actual conflicts? How about potential conflicts?

(iv) The purported conflict waiver is incomplete

The Hoats/Managing Member Conflict Waiver is not actually signed by Ms. Hoats in her individual capacity (she has only signed it on behalf of the

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debtor's Managing Member). In addition, as noted above, this court is not aware of any purported conflict waiver among the debtor and Operating Affiliate or Resources Affiliate.

(v) There might be conflicts among the debtor and Ms. Hoats

A third party who funds a retainer for the debtor (the "Funder") generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, counsel for the debtor and proposed special counsel should be prepared to address the following.

(A) Terms. What are the precise agreements, understandings or expectations regarding the funds -- e.g., are the funds a loan, a gift, an investment, or something else?

(B) Informed consent of Funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? Who provided such advice: independent counsel? counsel for the debtor? the debtor's proposed special counsel? Has the Funder given informed consent? Are those things in writing?

(C) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing? Ms. Hoats has signed the Hoats/Managing Member conflict waiver on behalf of the debtor: how can she, acting for the debtor, waive conflicts with herself?

(D) Other considerations. Has proposed special counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? *See In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Lotus Prop's LP*, 200 B.R. 388 (Bankr. C.D. Cal. 1996) (rejecting *per se* disqualification when fees are paid by third party); *and compare In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990) (*per se* rule). *See generally In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

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CONT... **Riverwood Gas and Oil LLC**

Chapter 11

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 5/23/17 at 2:00 p.m., status report due 5/9/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/4/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status report. This court's previous tentative ruling (reproduced below) directed the debtor to file a status report by 3/14/17. Why has no such status report been filed?

(b) Exit strategy. What is the debtor's exit strategy, and what progress has been made toward that goal?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 5/23/17 at 2:00 p.m., status report due 5/9/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for

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CONT... Riverwood Gas and Oil LLC
disposition at this hearing.

Chapter 11

Tentative Ruling for 2/7/17:

Continue to 4/4/17 at 2:00 p.m., status report due 3/14/17. No appearances are required on 2/7/17.

(1) Current issues

This case was filed on 11/23/16. The debtor's status report (dkt. 34) states that the debtor intends to retain special counsel, and the monthly operating reports (dkt. 37, 38) appear to show no activity other than opening DIP bank accounts and paying associated fees. Although progress in this case has been slow, it does not appear efficient to hold a status conference at this time. If substantially more progress is not shown by the next status conference, this court may dismiss this case for failure to appear in proper prosecution. See 11 U.S.C. 109(g)(1), 349.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 1/10/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.," "Instructions/Procedures").

(1) Current issues.

(a) Substitution of attorney. On 12/23/16, the debtor filed a substitution of attorney (dkt. 22) reflecting that current proposed counsel is Giovanni Orantes, Esq. Why has no employment application been filed?

(b) Exit strategy. What is the debtor's exit strategy, and what progress has been made toward that goal?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

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CONT...

Riverwood Gas and Oil LLC

Chapter 11

(c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/13/16:

Appearances required.

(1) Current issues

Counsel for the debtor should be prepared to address why no status report has been filed (see dkt. 3); why the docket does not reflect that anything has been done in this case to date; and why this court should not convert or dismiss this case.

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves, pursuant to the order setting this status conference (dkt. 3).

(1) Current issues.

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CONT...

Riverwood Gas and Oil LLC

Chapter 11

(a) First Day Motions. The debtor should be prepared to address the necessity of first day motions such as cash collateral, payroll, utilities, etc. To the extent that those motions are necessary, why have they not yet been filed?

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date*: to be set at the continued status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 12/13/16 at 2:00 p.m., initial status report due 11/29/16.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#11.00 Cont'd hrg re: Motion for Order Dismissing the Bankruptcy Case
fr. 1/29/19

Docket 411

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 17,
2/26/19 at 2:00 p.m.)

Tentative Ruling for 1/29/19:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19
at 2:00 p.m.)

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#12.00 Cont'd hrg re: Motion to Confirm Plan of Reorganization Proposed by Layne Leslie Britton or in the Alternative to Appoint a Chapter 11 trustee
fr. 1/29/19

Docket 406

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 17, 2/26/19 at 2:00 p.m.)

Tentative Ruling for 1/29/19:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19 at 2:00 p.m.)

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#13.00 Cont'd hrg re: Motion for Entry of Order Approving: (A) the "Disclosure Statement in Support of Plan of Reorganization Proposed by Layne Leslie Britton and Debra West" as Containing Adequate Information; (B) the Form, Scope, and Nature of Solicitation, Balloting, Tabulation, and Notices with Respect Thereto; and (C) Related Confirmation Procedures, Deadlines and Notices
fr. 09/18/18, 10/2/18, 11/6/18, 1/29/19

Docket 341

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 17, 2/26/19 at 2:00 p.m.)

Tentative Ruling for 1/29/19:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19 at 2:00 p.m.)

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the status conference (calendar no. 13, 11/6/18 at 2:00 p.m.)

Tentative Ruling for 10/2/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the papers pertaining to the plan proposed by creditors Mr. Britton and Ms. West (see dkt. 341-60) and particularly the issues of (1) impairment of Class 6, (2) compliance with 11 U.S.C. 1129(a)(5)(A), and (3) the possibility of a structured dismissal or alternative plan proposed by the debtor and Mr. Riggs.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Cloudbreak Entertainment, Inc. Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

Movant(s):

Layne Leslie Britton

Represented By
Eric D Winston
Shahin Rezvani
Jennifer L Nassiri

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#14.00 Cont'd hrg re: Motion for Order Disallowing Claim 5-1 of Debra West, Formerly Known as Debra Riggs fr. 1/10/17, 02/28/17, 04/25/17, 06/20/17, 9/19/17, 12/19/17, 2/27/18, 11/6/18, 1/29/19

Docket 169

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 17, 2/26/19 at 2:00 p.m.)

Tentative Ruling for 1/29/19:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19 at 2:00 p.m.)

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the status conference (calendar no. 13, 11/6/18 at 2:00 p.m.)

Tentative Ruling for 2/27/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. At the 12/19/17 hearing, this court continued the status conference for the parties to first address the debtor's motion for an order estimating Mr. Britton's claim (dkt. 297). There is no tentative ruling, but the parties must address the underlying papers concerning that motion, including Mr. Britton's opposition (dkt. 314) and the debtor's reply (dkt. 317).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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Cloudbreak Entertainment, Inc.

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/19/17:

Continue to 2/27/18 at 2:00 p.m. because, so far as this court can tell, it probably makes sense first to address the debtor's motion for an order estimating Mr. Britton's claim (dkt. 297), which is presently set for hearing on 1/23/18. If any party in interest disagrees, or believes that it would be useful to have appearances at a status conference on this claim at this time, they may contest this tentative ruling as provided below. Appearances are not required on 12/19/17.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

Movant(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#15.00 Cont'd hrg re: Motion for Order Estimating Claim of Layne Leslie Britton for Purposes of Allowances and Distribution
fr. 01/23/18, 1/30/18, 3/20/18, 5/1/18, 11/6/18, 1/29/19

Docket 297

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 17, 2/26/19 at 2:00 p.m.)

Tentative Ruling for 1/29/19:

Please see the tentative ruling for the status conference (calendar no. 8, 1/29/19 at 2:00 p.m.)

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the status conference (calendar no. 13, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 5/1/18:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/1/18 at 2:00 p.m.).

Tentative Ruling for 3/20/18:

Please see the tentative ruling for the status conference (calendar no. 7, 3/20/18 at 2:00 p.m.).

Tentative Ruling for 1/30/18:

Please see the tentative ruling for the status conference (calendar no. 2, 1/30/18 at 2:00 p.m.).

Tentative Ruling for 1/30/18:

This court anticipates posting a tentative ruling at a later time.

Party Information

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CONT... Cloudbreak Entertainment, Inc.

Chapter 11

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

Movant(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#16.00 Cont'd hrg re: Motion to Appointment of a Chapter 11 Trustee
or in the Alternative to Convert the Case to Chapter 7
fr. 01/29/19

Docket 399

Tentative Ruling:

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 17,
2/26/19 at 2:00 p.m.)

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#17.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16,
9/6/16, 11/29/16, 12/13/16, 02/28/17, 4/25/17,
5/23/17, 7/11/17, 8/22/17, 10/03/17, 1/23/18,
1/30/18, 3/20/18, 5/1/18, 11/6/18, 1/29/19

Docket 7

Tentative Ruling:

Tentative Ruling for 2/26/19:

Appearances required.

This Court is not posting its rulings on the pending, interrelated matters for two reasons:

(1) it is premature to rule until this Court has had an opportunity to review the forthcoming reply of the United States Trustee ("UST") (see dkt. 447, 449) to oppositions of Debtor (dkt. 445) and Mr. Riggs (dkt. 446) to the UST's motion (dkt. 399) to appoint a chapter 11 trustee, and

(2) this Court intends to order Debtor, Mr. Riggs, and Mr. Britton back to mediation, which may be more productive now - in view of developments both in the State Courts and in this Bankruptcy Court since the time of the prior mediation - and this Court anticipates addressing with the parties whether this Court should or should not issue (but stay) rulings on some or all of the pending matters prior to such mediation. If this Court is persuaded that rulings on some or all issues are appropriate prior to further mediation, this Court will issue detailed oral rulings at the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Cloudbreak Entertainment, Inc.

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Tentative Ruling for 1/29/19:

This Court anticipates either posting a tentative ruling at a later time or providing an oral tentative ruling at the hearing. Appearances required.

Tentative Ruling for 11/6/18:

This Court has been informed via a telephone call to chambers that there have been recent consensual resolutions of some issues. Accordingly, there is no tentative ruling. Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 5/1/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues: The debtor and Mr. Britton have stipulated (dkt. 327) to continue the hearing on the motion to estimate Mr. Britton's claim to 10/30/18 at 2:00 p.m. This Court issued an order (dkt. 328) setting the matter for hearing so that Ms. West can be heard on the proposed continuance, if she wishes. The tentative ruling is to approve the stipulation, but with one additional week, to 11/6/18@2, because the date selected by the parties is not available on this Court's calendar.

(2) Deadlines/dates. This case was filed on 12/1/15.

- (a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).
- (b) Plan/Disclosure Statement: TBD

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CONT...

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Chapter 11

(c) Continued status conference: 7/17/18 at 2:00 p.m.; brief Status Report due 7/9/18 at noon.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:
Appearances required.

(1) Current issues: estimating Mr. Britton's claim

This matter has been substantially briefed and argued at prior hearings (see para. "(1)" of Revised Tentative Ruling for 1/30/18, reproduced below, and Mr. Britton's Opposition to Estimation Motion, dkt. 315, and debtor's Reply, dkt. 317, 322). This Court anticipates providing an oral tentative ruling at the start of the hearing, followed by a brief time (maximum 10 minutes each) for further argument before this Court makes a final ruling on the estimation motion.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: TBD

(c) Continued status conference: 4/17/18; no written Status Report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Revised Tentative Ruling for 1/30/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues: estimating Mr. Britton's claim

At the hearing on 10/3/18 this court contemplated that after the debtor filed its motion (dkt. 297) for an order estimating the claim of creditor Layne Leslie Britton then this court would set a briefing schedule. The tentative ruling is to set the briefing schedule set forth below.

This court notes that the parties have already briefed, and this court has preliminarily addressed, some of the underlying issues, in connection with the debtor's prior motion for an order approving a draft plan and disclosure statement. Therefore a longer briefing schedule does not appear to be necessary. See dkt. 244 (motion), dkt. 260 (opposition, especially at pp.17:11-21:13 and Winston Decl. Ex.1.B.), dkt. 263 (reply, especially at pp.9:9-12:24), transcript of 8/22/17 hearing (dkt. 272), debtor's status report (dkt. 273), and audio recording of 10/3/17 hearing.

Tentative briefing schedule:

2/13/18 deadline for Mr. Britton's opposition to estimation motion (dkt. 297)

2/20/18 deadline for reply by the debtor

2/27/18 at 2:00 p.m., hearing

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: TBD

(c) Continued status conference: to be held concurrent with the hearing on the claim estimation motion; no written Status Report required (but if any status report is filed by any party, it should be filed at the same time as the debtor's reply so that this court will have adequate time to review it before the hearing).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/23/18:

Continue to 1/30/18 at 2:00 p.m. to be concurrent with the preliminary hearing (for scheduling purposes) on the debtor's motion (dkt. 297) to estimate Mr. Britton's claims. Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/3/17:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the debtor's status report (dkt. 273), and any other matters appropriate for a status conference.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/22/17:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the debtor's motion for approval of the proposed disclosure statement (dkt. 244), the Britton opposition (dkt. 260), the debtor's reply (dkt. 263), the debtor's status report (dkt. 262), and any other matters appropriate for a status conference.

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Courtroom 1545 Calendar**

Tuesday, February 26, 2019

Hearing Room 1545

2:00 PM

CONT... **Cloudbreak Entertainment, Inc.**

Chapter 11

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/11/17:

Continue as set forth below. Appearances are not required on 7/11/17.

(1) Current issues

No *sua sponte* issues at this time.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement (dkt. 246, 245): D/S hearing scheduled for 8/22/17 at 2:00 p.m. (see dkt. 253).

(c) Continued status conference: 8/22/17 at 2:00 p.m.; brief Status Report due 8/15/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/23/17:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The parties should be prepared to update this court on the status of the issues noted in the debtor's Eighth Status Report (dkt. 231), as well as whether this court should set any deadlines or procedures.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: The court will discuss setting deadlines related to the Plan/Disclosure Statement at the status conference.

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(c) Continued status conference: 6/20/17 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/25/17:

Continue all matters to 5/23/17 at 1:00 p.m. pursuant to the debtor's request in the Seventh Status Conference Report (dkt. 224, p.3). Appearances are not required on 4/25/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 2/28/17:

Continue all matters to 4/25/17 at 1:00 p.m. pursuant to the debtor's request in the Sixth Status Conference Report (dkt. 212, p.3). Appearances are not required on 2/28/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Revised Tentative Ruling for 12/13/16:

Continue all matters to 2/28/17 at 2:00 p.m. pursuant to the parties' request in the status conference statement (dkt. 181, p.3). Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 12/13/16:

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Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The parties should be prepared to update this court on the status of this case including their negotiations, why this court should not order mandatory mediation, which parties in interest should be included in such mediation, and any other appropriate procedures regarding payment of professionals, filing documents under seal, etc.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: no deadline

(c) Continued status conference: 2/28/17 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Fee applications. The tentative ruling is (1) after the reductions that Browne concedes, to overrule the Britton objection to Browne's fees; (2) to sustain in part the limited objection of Ms. West by allowing 100%, but temporarily deferring any payment (either from any retainer or from other sources), on account of the fee applications, with a deadline of 12/12/16 for Ms. West to file (a) an adversary proceeding to determine the relative priorities of her rights and interests in the royalties, and/or other funds in which the debtor's estate asserts an interest, as against the debtor, its creditors, and other parties in

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interest, and (b) a request (motion) for adequate protection of her alleged claims or interests (pursuant to 11 U.S.C. 361 and 363(c), (e), (p), and Rule 7001(2), (7) & (9), Fed. R. Bankr. P.). In addition, this court anticipates providing a tentative ruling on the merits of Ms. West's asserted rights and interests, and addressing what documents (already filed or filed in future) do or do not have to be under seal, and establishing a mutually workable procedure for any sealed documents.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: no deadline

(c) Continued status conference: 4/4/17 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/6/16:

Continue to 12/13/16 at 1:00 p.m. based on the debtor's current status report (dkt. 112). Appearances are not required on 9/6/16.

The debtor is directed to file a brief status report two weeks before the continued status conference.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 4/12/16:

Continue to 9/6/16 at 11:00 a.m. to address the following issues. Appearances are not required on 4/12/16.

Based on the statements made in the debtor's status report (dkt. 92), this Court continues this status conference as set forth above. The debtor shall file a brief

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status report two weeks before the continued status conference.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 2/2/16:

Continue to 2/23/16 at 2:00 p.m. unless any opposition/response to employment or recusal are filed prior to 1/30/16. Appearances are not required on 2/2/16.

Reasons: At the hearing on 1/19/16, this court stated that the status conference would be continued without further hearing if no oppositions/responses to employment or recusal were received by the deadline for such things, which is 1/29/16. As of the preparation of this tentative ruling (on 1/29/16) no such documents have yet been filed.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Revised Tentative Ruling for 1/19/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Key documents reviewed: Motion for relief from automatic stay (dkt. 11), the debtor's opposition (dkt. 33), and the movant's reply (dkt. 46); and the debtor's application to employ Browne George Ross LLP as special counsel under 11 U.S.C. 327(e) and supporting papers (dkt. 26-30, 44, 45).

(1) Current issues.

(a) Background. Claimant Britton's motion for relief from the automatic stay (dkt. 11) seeks to modify the automatic stay to liquidate the parties' claims in the underlying State Court action (*Britton v. Riggs*, LA Superior Ct. No. BC 496298). Just before trial was set to commence, the debtor filed this bankruptcy case, and trial has now been continued to 2/10/16. The debtor has filed an

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application (dkt. 26) to employ its existing attorneys in the State Court action as special counsel.

In view of the apparent urgency of these matters, this Bankruptcy Court issued an order raising a number of its initial concerns (dkt. 35), held a preliminary hearing on 1/8/16, and directed the debtor to serve a supplemental notice addressing certain issues. In addition, when Judge Bason's law clerk learned of certain attenuated connections between him and the parties in this case, those matters were disclosed on the record (dkt. 39), and the debtor was directed to serve those disclosures on all parties in interest.

The debtor complied with these notice requirements (see dkt. 44, 43, 45) and the period for any response expires on 1/29/16 (fixed date in dkt. 39 as to this court's disclosures; and service on 1/11/16 + 14 days' notice + 3 days for service via U.S. mail = 1/29/16 as to the employment application). As of the time when this tentative ruling has been prepared (1/18/16) no response on either matter appears on the docket.

(b) Relief from the automatic stay. The tentative ruling is to modify the automatic stay as follows, effective immediately upon (i) entry of an order of this court granting the employment application (so that the debtor can defend and prosecute its claims in the State Court action) and (ii) resolution of any request to be heard regarding recusal. Specifically, the automatic stay would be modified to permit litigation of the State court action insofar as *liquidating* claims by Mr. Britton against the debtor and its principal, Mr. Riggs, as well as liquidating any counterclaims, including all subsidiary disputes such as whether the statute of limitations should be tolled and any alter ego issues, but not to permit *enforcement* of any judgment against any property in which the debtor asserts an interest absent further order of this Bankruptcy Court.

Judge Bason is not persuaded by the debtor's argument that the statute of limitations issue should be addressed by this Bankruptcy Court before any State Court litigation is permitted to continue. The principles underlying the *Rooker Feldman* doctrine (that this Bankruptcy Court may not act as essentially an appellate court for State Court determinations), as well as comity, a respect for the State Court's determination of these issues, conservation of judicial resources, the avoidance of forum shopping, and not permitting a party to obtain "two bites at the apple" all weigh against deciding the statute of limitations issues here. The State Court issued a detailed tentative ruling (dkt. 46-1, Ex.A,

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pp.23-26) regarding the statute of limitations issues, including its conclusion that those issues could not be determined as a matter of law because a reasonable trier of fact "may well determine that the delay in filing the action was due to the Defendants' fraud or other misconduct such that Defendants should be estopped from asserting the statute of limitations," and the State Court apparently adopted that tentative ruling when it denied the defendants' motion for summary judgment and declined to address the statute of limitations issues before trial. Judge Bason is not persuaded that this Bankruptcy Court can or should revisit that determination.

As to any claims that are truly alter ego claims (as distinguished from fraudulent transfer claims or other avoidance actions that belong to this bankruptcy estate), the tentative ruling is that under the *Ahcom* decision (623 F.3d 1248 (9th Cir. 2010)), any such claims do not belong to the bankruptcy estate and, therefore, the automatic stay would not prevent claimant Mr. Britton from seeking to establish and pursue any alter ego claims against Mr. Riggs. Alternatively, the tentative ruling is to modify the automatic stay (if it applied) to permit such true alter ego claims to be litigated (when and if the State Court determines that they should be) because if those issues turn out to be relevant then they will have to be litigated anyway, and the State Court would be the proper forum in which to litigate them. To the extent that the debtor seeks to stay (enjoin) any such alter ego claims against Mr. Riggs in this bankruptcy case, such an injunction would have to be the subject of a separate adversary proceeding. See, e.g., *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007).

(c) Employment of special litigation counsel. The tentative ruling is to conditionally approve employment of special litigation counsel for the reasons stated at the preliminary hearing on 1/8/16 and in the application (dkt. 26) and debtor's supplemental disclosures (dkt. 44). The condition is that no order approving such employment should be lodged until after the period for responses to such application or to this court's disclosures has expired (on 1/29/16), and of course if any such response is filed then this court will consider such responses (at a hearing as set forth below).

The potential for alter ego claims does not appear to create any cognizable conflict, at least at this stage of the litigation. Although it could be argued that there would be a conflict because any recovery that Mr. Britton could obtain from

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Mr. Riggs would *decrease* his claim against the debtor, and therefore theoretically *benefit* the debtor, it seems more likely at this stage that both Mr. Riggs and the debtor have a unified interest in contesting any asserted grounds for alter ego liability (i) so as to assure that Mr. Riggs devotes his energies to the debtor's future success and ability to pay its creditors, and (ii) so as to attempt to assure that there is a level playing field among the debtor's creditors (which, arguably, there would not be if one creditor - Mr. Britton - could pursue alter ego recoveries before other creditors could seek to do the same).

Of course, counsel for the debtor (both general and special counsel) and Mr. Riggs himself will need to monitor the situation continually. If a conflict or potential conflict does develop, they will need to file appropriate disclosures and/or seek a supplemental ruling from this court regarding the terms of any continued employment of special counsel.

(d) Tentative hearing. If any response is filed to either the employment application or this court's disclosures, then a hearing will take place on 2/2/16 at 2:00 p.m. to address those things. If there is any such response, the debtor must notify chambers so that the matter may be added to this court's calendar for that day.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement*: file by 7/1/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 2/2/16 at 2:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

*Warning: special procedures apply (see order setting initial status conference).

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/19/16:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/5/16:

Appearances required by counsel for the debtor and by the principal of the debtor.

(1) Current issues.

(a) Affiliated businesses. The debtor's status report (dkt. 20, p.8:17-9:3) requests that the debtor be excused from providing financial information concerning affiliates in both the status report and monthly operating reports. The tentative ruling is to grant that request.

(b) Service of status report. This court's form status report must be served on, *inter alia*, all of the debtor's secured creditors and the top 20 largest general unsecured creditors. It appears that there are no secured creditors, but that unsecured creditors were not served (see dkt. 20, p. 10). The tentative ruling is to direct the debtor, no later than 1/6/16, to serve all parties in interest with a copy of the status report and this tentative ruling, and then parties in interest may, if they choose, raise any appropriate issues at future status conferences.

(c) Plan and disclosure statement. The debtor has suggested (dkt. 20, p.4:20-23) a deadline of 4/30/16 to file initial drafts. The debtor should be prepared to address the associated procedures, including the local form plan and whether that deadline is consistent with the pending litigation with creditor Layne Leslie Britton (dkt. 11), currently set for trial in State court for 2/10/16.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement*: file by 4/30/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later

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time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 1/19/16 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:18-23799 Jonathan Ahron

Chapter 13

#18.00 Order Directing Counsel for JPMC to Show Cause
Why This Court Should Not Take Further Action Regarding
Failure to Lodge Proposed Order Excusing Turnover

Docket 68

***** VACATED *** REASON: OSC discharged**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jonathan Ahron

Represented By
Scott Kosner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#1.00 Hrg re: Emergency Motion for an Order Establishing
Notice Procedures and Permitting Service on Insured
Depository Institutions by First-Class Mail

Docket 8

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8,
2/28/19 at 10:00 a.m.)

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Monserrat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#2.00 Hrg re: Emergency Motion of Debtor for Order
Extending Time to File Schedules and Statements

Docket 9

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8,
2/28/19 at 10:00 a.m.)

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Monserat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#3.00 Hrg re: Emergency Motion For An Order Authorizing Debtor to Pay Accrued Priority Wages And Other Employee Benefits

Docket 14

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8, 2/28/19 at 10:00 a.m.)

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#4.00 Hrg re: Emergency Motion for an Order Authorizing
(1) Maintenance of Prepetition Bank Accounts, and
(2) Continued Use of Existing Forms

Docket 12

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8,
2/28/19 at 10:00 a.m.)

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#5.00 Hrg re: Emergency Motion for an Order Authorizing
(1) the Use Of Cash Collateral, and (2) Grant of Adequate
Protection to Secured Creditors

Docket 13

Tentative Ruling:

Grant in part and deny in part on an interim basis, subject to the conditions set forth below, with a final hearing on the same date as the continued status conference (tentatively scheduled for 3/26/19 at 1:00 p.m. per calendar no. 10, 2/28/19 at 10:00 a.m.), and a deadline of 3/1/19 for the movant to file and serve a notice of the final hearing. Appearances required.

Analysis

The tentative ruling is to deny the motion for use of cash collateral to the extent that it seeks payment on account of prepetition debts, listed on the budget (dkt. 13, Ex.1) as "Critical Vendor Pre-Petition Relief." No motion seeking payment of prepetition claims of critical vendors has been filed (and traditionally it has been generally understood that such relief is not available in the Ninth Circuit).

To the extent the budget contemplates adequate protection payments (as distinguished from actual payment on prepetition debt), the tentative ruling is to grant the motion (subject to the conditions set forth below). Debtor is directed to clarify if the proposed payments listed in the budget as "Credit Line," "Equipment Loan," "Real Estate Loan Interest," and "Equipment Loan Interest" are intended to be adequate protection payments.

To the extent that the cash collateral motion seeks relief regarding Cathay Bank's alleged violation of the automatic stay (see dkt. 13 at PDF p.13-14, dkt. 23), the tentative ruling is to deny any such relief because the alleged stay violations are not properly before this Court. No motion for contempt pursuant to 11 U.S.C. 105 and 362(a) has been filed, nor has Cathay Bank filed a motion for relief from the automatic stay, and the parties have not briefed the issues.

But if the parties are in any doubt about the parameters of the automatic stay they are encouraged to seek relief by filing appropriate motions.

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Then they can obtain rulings of this Court determining whether it is a violation of the automatic stay (i) to seek discovery of books and records from third parties in the prepetition action in State Court (see 11 U.S.C. 362(a)(1)&(6)), (ii) to apply a temporary freeze to bank accounts (see *Citizens Bank of Maryland v. Stumpf*, 116 S.Ct. 286 (1995)), or (iii) to decline to honor any postpetition requests for payment out of Debtor's bank account to pay third parties' prepetition debts (see 11 U.S.C. 362(a)(6)).

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such

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creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

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Chapter 11

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Montserrat Morales

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, February 28, 2019

Hearing Room 1545

10:00 AM

2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#6.00 Hrg re: Motion to Reject Lease or Executory Contract for Real Property Located at 535 First Street, Winterhaven, California; 657 N. Seventh Street, Brawley, California, 2375 Mills Avenue, #1, Chino, California, and 522-524 E. Edna Place, Covina, California

Docket 24

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8, 2/28/19 at 10:00 a.m.)

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Montserrat Morales

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, February 28, 2019

Hearing Room 1545

10:00 AM

2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#7.00 Hrg re: Emergency Motion for Order Determining Adequate Assurance of Payment for Future Utility Services and Setting Procedures to Resolve Any Disputes

Docket 25

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8, 2/28/19 at 10:00 a.m.)

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Montserrat Morales

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, February 28, 2019

Hearing Room 1545

10:00 AM

2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#8.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, February 28, 2019

Hearing Room 1545

10:00 AM

CONT...

Schaefer Ambulance Services, Inc

Chapter 11

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.,* were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, February 28, 2019

Hearing Room 1545

10:00 AM

CONT... Schaefer Ambulance Services, Inc

Chapter 11

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, March 1, 2019

Hearing Room 1545

11:30 AM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#1.00 Telephonic Hearing re: Motion to Use Cash Collateral Dispute

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Movant(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Craig G Margulies
Craig G Margulies
Montserrat Morales
Montserrat Morales
Montserrat Morales

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:18-19139 Hubert Rosales Bagas and Aida Cruz Bagas

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

US BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT... Hubert Rosales Bagas and Aida Cruz Bagas Chapter 13

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Hubert Rosales Bagas

Represented By
Lawrence B Yang

Joint Debtor(s):

Aida Cruz Bagas

Represented By
Lawrence B Yang

Movant(s):

US Bank National Association

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:18-22403 Omar Salomon Siguenza

Chapter 7

#2.00 **[CASE DISMISSED ON 2/15/19]**

Hrg re: Motion for relief from stay [RP]

U.S. BANK, NA
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Omar Salomon Siguenza

Chapter 7

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Omar Salomon Siguenza

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT... Omar Salomon Siguenza

Chapter 7

Movant(s):

U.S. Bank, N.A., successor trustee to

Represented By
Merdaud Jafarnia

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:19-10005 Luis Alberto Bravo

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 20

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Luis Alberto Bravo

Chapter 13

any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, including Debtor's response (dkt. 38), it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT... Luis Alberto Bravo

Chapter 13

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Luis Alberto Bravo

Represented By
Brad Weil

Movant(s):

U.S. Bank National Association

Represented By
Arnold L Graff
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:19-10005 Luis Alberto Bravo

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST NATIONAL ASSOCIATION
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Luis Alberto Bravo

Chapter 13

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT... Luis Alberto Bravo

Chapter 13

Debtor(s):

Luis Alberto Bravo

Represented By
Brad Weil

Movant(s):

U.S. Bank Trust National

Represented By
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:19-11247 Corey Sells

Chapter 13

#5.00 HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 614 West 111th Place, Los Angeles, CA 90044 .

Docket 8

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Case number 1:18-bk-12728-MB, Order Granting Relief From Stay (dkt. 16).

The automatic stay does not apply

The tentative ruling is to deny the request for an order confirming that no stay was in effect at all relevant times.

(a) In rem relief was effective on 2/6/19 sometime after 10:00 a.m.

It is true that Movant previously was granted *in rem* relief under 11 U.S.C. 362(d)(4) in a bankruptcy case before Judge Barash (see 1:18-bk-12728-MB, dkt. 16), so any bankruptcy case filed after that relief was effective would not cause any automatic stay with respect to the subject property. The hearing in that case was on 2/6/19, commencing at approximately 10:00 a.m. The tentative ruling is that, for two alternative reasons, relief under section 362(d)(4) was effective as of the oral ruling by Judge Barash - *i.e.*, that *in rem* relief was effective immediately, as opposed to being effective only after the written order was issued and/or recorded.

First, the plain meaning of the statute is that, although it requires recording of the *in rem* order, it does not make the effectiveness of the *in rem* relief conditional on prior recording. Congress easily could have done so, and this Court is not inclined to read into the statute a limitation that Congress did not state.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Corey Sells

Chapter 13

Second, if there were any ambiguity in the statute, the tentative ruling is that Congress was unlikely to have intended prior recording. That would invite abuse of the bankruptcy system by allowing Debtors to file bankruptcy petitions in response to unfavorable oral rulings, before any written order could be issued and recorded.

(b) This case was filed on 2/6/19 at 10:34 a.m., which might or might not have been after Judge Barash's oral ruling

The bankruptcy petition commencing this case was filed on 2/6/19 at 10:34 a.m., which might or might not have been after Judge Barash made his oral ruling. There is insufficient evidence in the motion papers to determine that factual issue. Accordingly, the tentative ruling is to deny the request for an order that no stay applied (maybe it did, and maybe it did not, but the present record is insufficient to tell).

All of that said, it probably does not matter whether the stay applied, because the tentative ruling is to grant from whatever stay did exist. That relief is described below.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT...

Corey Sells

Chapter 13

presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Corey Sells

Represented By
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:18-16720 Shelly Knowles

Chapter 13

#6.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 27

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

**United States Bankruptcy Court
Central District of California
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Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT... Shelly Knowles

Chapter 13

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Shelly Knowles

Represented By
Scott Kosner

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:19-10833 Damon Jeffries

Chapter 13

#7.00 Hrg re: Motion for relief from stay [UD]

JAMBOREE APARTMENTS, LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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Central District of California
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Tuesday, March 5, 2019

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10:00 AM

CONT...

Damon Jeffries

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Damon Jeffries

Pro Se

Movant(s):

JAMBOREE APARTMENTS, LLC

Represented By
Scott Andrews

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:19-11228 Patrick McTizic

Chapter 13

#8.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 9

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT... Patrick McTizic

Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patrick McTizic

Represented By
Kevin Tang

Movant(s):

Patrick McTizic

Represented By
Kevin Tang
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:19-11370 Ronald C Kendrick

Chapter 13

#9.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 7

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

CONT... Ronald C Kendrick

Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ronald C Kendrick

Represented By
Nima S Vokshori

Movant(s):

Ronald C Kendrick

Represented By
Nima S Vokshori
Nima S Vokshori

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:15-29161 Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/07/18, 10/2/18, 12/4/18, 12/18/18, 1/29/19

DEUTSCHE BANK TRUST COMPANY AMERICAS
vs
DEBTOR (S)

Docket 40

Tentative Ruling:

Tentative Ruling for 3/5/19 (same as for 1/29/19):

Appearances required. At the hearings on 12/18/18 and 1/29/19, this Court was persuaded to continue this matter for a possible finalization of a loan modification. There is no tentative ruling, but the parties should be prepared to address the status of the loan modification.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Reason: At the 12/4/18 hearing, this Court set a deadline of 12/11/18 for Debtor to provide evidence in support of any further continuance and adequate protection, including evidence of the status of the attempted loan modification.

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10:00 AM

CONT... Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

Debtor did not file any evidence by the deadline.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

In view of the alleged equity in the property this Court grants the following limited relief to Debtor:

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3).
No foreclosure sale of the property may take place prior to 2/28/19.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/4/18 (same as for 10/2/18, and 8/7/18 except telephonic appearances encouraged):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's

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CONT... Victor Hugo Anaya and Nora Leticia Anaya
response, dkt. 42).

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Victor Hugo Anaya

Represented By
Erika Luna

Joint Debtor(s):

Nora Leticia Anaya

Represented By
Erika Luna

Movant(s):

Deutsche Bank Trust Company

Represented By
Sheereen Middleton
Keith Labell
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:16-21902 Jose Alberto Ramos and Vanessa Ramos

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/4/18, 10/16/18, 12/18/18, 1/29/19

OCWEN LOAN SERVICING, LLC
vs
DEBTOR

Docket 60

Tentative Ruling:

Tentative Ruling for 3/5/19 (same as for 1/29/19, 12/18/18, 10/16/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied

**United States Bankruptcy Court
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Tuesday, March 5, 2019

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10:00 AM

CONT... Jose Alberto Ramos and Vanessa Ramos Chapter 13

on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Alberto Ramos

Represented By
Claudia C Osuna

Joint Debtor(s):

Vanessa Ramos

Represented By
Claudia C Osuna

Movant(s):

Ocwen Loan Servicing, LLC

Represented By
Seth Greenhill
Keith Labell
Theron S Covey
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19

US BANK TRUST NATIONAL ASSOCIATION
VS
DEBTOR

Docket 114

***** VACATED *** REASON: Stipulation (dkt. 130), and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

US Bank Trust US Bank Trust

Represented By
Kristin A Zilberstein

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:17-25003 Lydia G Cardenas

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 01/15/19

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 62

Tentative Ruling:

Tentative Ruling for 3/5/19:
Appearances required.

At the hearing on 1/15/19 this Court continued this matter for a possible adequate protection order or other consensual resolution. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order or some other consensual resolution.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:
Appearances required. At the hearing on 11/23/18 this Court continued the matter, without objection, for the reasons stated in the tentative ruling for that date. Have the parties come to any consensual resolution?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... Lydia G Cardenas

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required. The tentative ruling is to continue this motion for relief from the automatic stay to 1/15/19 at 10:00 a.m. for the following reasons.

Background

Debtor was authorized to make reduced mortgage payments of \$845.68 per month pursuant to this Court's order (dkt. 39) granting Debtor's motion to commence the Loan Modification Management ("LMM") program. That same order provides that Debtor shall continue making monthly payments in that amount until that amount is superseded - e.g., by a "final loan modification amount" (dkt. 39, sec. b.(2)) - and the order also directs Debtor to "file and serve appropriate papers to revise any plan" to reflect the current LMM payments.

Debtor does not dispute that the loan modification was ultimately denied. See dkt. 64, Ex.2. Debtor apparently made the reduced payments of \$845.68/mo. from March through July of 2018, and apparently resumed normal payments of \$1,529.99/mo. in August of 2018.

Meanwhile, Debtor's plan (dkt. 48, filed 8/7/18) provides in Class 2 that Movant (referred to as Rushmore Loan Services) will be repaid the prepetition arrears of approximately \$51,486.00 (Movant's proof of claim 1-1 lists only \$0.06 more) via monthly payments of \$1,050.74, without interest. That plan was confirmed by this Court's order (dkt. 59, 10/11/18).

Analysis

Debtor apparently paid \$845.68 per month from March through July of 2018. Movant asserts that Debtor should have paid \$1,529.99 per month during that time.

Movant's assertion is contrary to this Court's order granting Debtor's motion to commence the LMM program. That order specifically authorizes and directs Debtor to pay the \$845.68 amount.

The question is what to do about the shortfall between \$845.68 and

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10:00 AM

CONT... Lydia G Cardenas

Chapter 13

\$1,529.99 now that the loan modification has been denied. The tentative ruling is as follows.

First, the shortfall does not simply disappear. Rather, pursuant to the order granting the LMM motion, now that the loan modification has been denied Debtor is obligated to file and serve a motion to modify the confirmed plan (a "MoMod") under 11 U.S.C. 1329, to reflect that denial.

Second, one form of MoMod would be to repay that shortfall (on top of repaying the prepetition arrears) over the entire remainder of the Plan's term. Another form of MoMod would be to provide for paying the shortfall over a shorter term, such as the typical period for an adequate protection order (usually six months and occasionally up to double that period). There might be other types of MoMod that would be permissible (e.g., providing for a refinancing or "step up" payments).

Third, what type of MoMod is permissible will depend on whether Movant is adequately protected by the proposed terms of repayment of the shortfall. This is akin to the usual analysis under 11 U.S.C. 362(d), except that unlike the usual situation in which a debtor fails to live up to postpetition obligations, in this case Debtor apparently has lived up to such obligations. Therefore, Debtor's promise of future performance is entitled to greater weight.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lydia G Cardenas

Represented By
Barry E Borowitz
Michael E Clark

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kelsey X Luu

**United States Bankruptcy Court
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Tuesday, March 5, 2019

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10:00 AM

CONT... Lydia G Cardenas

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:18-15895 Maria Esther Martinez

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19; 02/05/19

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 28

***** VACATED *** REASON: Stipulation (dkt. 39) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Maria Esther Martinez

Represented By
Heather J Canning

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:18-20271 Kevin Kenji Oda and Lydia Marie Ramirez Oda

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/05/19

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 23

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Kevin Kenji Oda

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Lydia Marie Ramirez Oda

Represented By
Ramiro Flores Munoz

Movant(s):

Deutsche Bank National Trust

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:18-25035 Marie Theresa Walton

Chapter 13

#16.00 Cont'd hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate fr. 1/29/19

Docket 14

Tentative Ruling:

Tentative Ruling for 3/5/19:
Appearances required.

At the hearing on 1/29/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

CONT...

Marie Theresa Walton

Chapter 13

seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marie Theresa Walton	Pro Se
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Movant(s):

Marie Theresa Walton	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, March 5, 2019

Hearing Room 1545

10:00 AM

2:19-10456 Paul Montes

Chapter 13

#17.00 **[CASE DISMISSED ON 02/04/2019]**

Hrg re: Motion for relief from stay [RP]
fr. 02/26/19

BRECKENRIDGE PROPERTY FUND 2016, LLC
vs
DEBTOR

Docket 8

*** VACATED *** REASON: Per Order entered at dkt. 18

Tentative Ruling:

Party Information

Debtor(s):

Paul Montes

Pro Se

Movant(s):

Breckenridge Property Fund 2016,

Represented By
Amelia B. Valenzuela

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, March 5, 2019

Hearing Room 1545

11:00 AM

2:18-24612 Robert Panosian

Chapter 7

Adv#: 2:18-01457 Los Angeles Federal Credit Union v. Panosian

#1.00 Status conference re: Complaint to determine the dischargeability of debt pursuant to 11 U.S.C. section 523(a)(2)(A)

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Preliminary matters:

(1) No status report

The parties have failed to file any joint status report. Why not?

(2) Stay all proceedings pending mediation

This Court has reviewed the filed documents and records in this adversary proceeding. This Court notes that a Default was entered in this case on 2/7/19 (dkt. 5); Defendant/Debtor then filed an answer on 2/8/19 (dkt. 6); Plaintiff then filed a Motion for Default Judgment on 2/11/19 (dkt. 8), which is set for hearing on 3/26/19 at 11:00 a.m. The tentative ruling is to stay all proceedings and order mandatory mediation.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so –

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CONT...

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and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 3/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/26/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 4/23/19

Continued status conference: 5/7/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order:N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Robert Panosian

Represented By
Christopher S Reyes

Defendant(s):

Robert Panosian

Pro Se

Plaintiff(s):

Los Angeles Federal Credit Union

Represented By
Alana B Anaya

Trustee(s):

David M Goodrich (TR)

Pro Se

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11:00 AM

2:16-24010 Ricky Grayson

Chapter 7

Adv#: 2:18-01030 Construction Laborers Trust Funds for So Calif v. GRAYSON

#2.00 Cont'd status conference re: Complaint to determine dischargeability of debt and for specific performance compelling an audit
fr. 4/10/18, 4/17/18, 5/22/18, 6/12/18, 10/16/18

Docket 1

Tentative Ruling:

Tentative Ruling for 3/5/19:

Although this Court questions whether there is any point in keeping a nondischargeability action pending when the debtor is deceased, the tentative ruling is to continue this status conference to 6/4/19 at 11:00 a.m. based on the request in the Status Report (dkt. 20). Appearances are not required on 3/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues.

Current Issues:

(1) District Court Litigation: On 6/12/18 this Court granted relief from the automatic stay (main case dkt. 123) to proceed with related litigation before the District Court. The parties should be prepared to address the status of the District Court litigation, and any other matters bearing on resolution of this matter.

(2) Joint Status Report: Per this Court's adopted tentative ruling for

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6/12/18 (reproduced below), the parties were required to submit a joint status report on 10/2/18. No such report was filed. The parties should be prepared to address why the joint status report was not filed as ordered.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Continue status conference to 10/16/18 at 11:00 a.m. for the reasons stated below. Appearances are not required on 6/12/18.

Current Issues.

(1) Motion to Dismiss (adv. dkt.7). At the hearing on 4/17/18, this Court was persuaded to defer ruling on the motion to dismiss in view of the possibility that the issues would be litigated before the district court. On 5/9/18 plaintiff filed a motion for relief from stay to proceed with the district court litigation (2:16-bk-24010-NB, dkt. 117) (the "R/S Motion") and scheduled a hearing for this date on the 10:00 a.m. calendar. This court's tentative ruling for the R/S Motion is to grant that motion. Therefore, the tentative ruling for this matter is to take the motion to dismiss off calendar without prejudice to resetting it or filing appropriate papers after the district court litigation has been resolved.

(2) Deadlines: In view of this Court's tentative ruling on the R/S Motion, the tentative ruling is to continue this status conference to the date and time stated at the start of this tentative ruling. The parties are directed to file a joint status report by 10/2/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/22/18:

Continue to 6/12/18 at 11:00 a.m. for the reasons stated in the status report (adv. dkt. 16). Appearances are not required on 5/22/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required. The court has reviewed the debtor's motion to dismiss (dkt. 7), Plaintiff's opposition (dkt. 14), the parties' joint status report (dkt. 9), Notice of Related District Court Case (dkt. 12) and the other filed documents and records in this adversary proceeding.

Paragraph "(2)" below is the tentative ruling on the motion to dismiss. Paragraphs "(1)," "(3)," and "(4)" below are Judge Bason's standard requirements for status conferences, with additional provisions specific to this matter. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re*

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Bellingham Ins. Agency, Inc., 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

With respect to this specific matter, although nondischargeability complaints are prototypically "core" bankruptcy matters, this Bankruptcy Court is concerned about possible duplication of litigation and infringement on the District Court's management of the related nonbankruptcy action pending in that Court since 6/16/17. Should this Bankruptcy Court grant relief from the automatic stay (on this Court's own motion or the motion of either party) so that such litigation can proceed, and meanwhile hold this nondischargeability action in abeyance? Alternatively, are other approaches preferable, such as removal, or withdrawal of the reference, or bifurcation of issues? The parties are directed to address what is the most appropriate and efficient way to proceed.

(2) Motion to Dismiss (dkt. 7)

The legal standards applicable to a motion to dismiss will not be repeated here because they are well known and have been summarized in the parties' filed papers. The tentative ruling is to grant the motion to dismiss the first and second claims for relief, with leave to amend, for the following reasons.

(a) 11 U.S.C. 523(a)(2)(A): false representation etc.

The debtor/defendant seeks dismissal of the first claim for relief, under section 523(a)(2)(A), on the ground that the plaintiff has not alleged that he obtained money, property, services, or credit from plaintiff as a result of the alleged fraud. The debtor/defendant argues (adv. dkt. 7, pp.6:23-7:3) that any alleged misrepresentations occurred in reports filed after the employees had performed services for the prior month and therefore after the debt was incurred, so the money or property at issue was not "obtained by" the alleged fraud.

On the one hand, the motion to dismiss is not entirely persuasive on this point. Reading the complaint in the light most favorable to the plaintiff as this Court must do when addressing a motion to dismiss, the complaint (adv. dkt. 1, p.1, para. 25) alleges that as a result of an ongoing pattern of false reports the Trust Funds (whom the plaintiff represents) missed opportunities to assert

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claims against the debtor/defendant's general contractors, which allegedly would have resulted in recovery of funds to cover the dollar amounts owed to the Trust Funds. In other words, if the Trust Funds had known of the (allegedly) false representations in those reports (or the allegedly fraudulent nature or false pretenses in those reports) then, allegedly, the Trust Funds could have pursued remedies that apparently are no longer available to them, so the fact that the reports were filed after the services were rendered each month is not dispositive.

But the complaint does not explain how the Trust Funds' missed opportunity amounts to obtaining money, property, services, or credit from plaintiff as a result of the alleged fraud. Rather, it appears that the (allegedly) false reports enabled the debtor/defendant to continue obtaining services from the employees (without providing those employees all of the compensation to which they were owed, in the form of funds that should have been transferred to the Trust Funds for the benefit of the employees). *Compare In re Kay*, 60 B.R. 174, 176 (Bankr. C.D. Cal. 1986) (liability based on fact that "the employee beneficiaries" sustained damages as "the proximate result of the defendants' representations") (emphasis added).

In sum, there are not enough allegations in the complaint to show a causal connection between the alleged falsehoods of the debtor/defendant and some sort of damage to the plaintiff. It is possible, of course, that the plaintiff stands in the shoes of the employees for these purposes, but the complaint does not include sufficient allegations (or copies of documents) for this Court to read the complaint that way. It is also possible that the plaintiff itself has been damaged - e.g., perhaps the plaintiff is liable to the employees if it did not detect and cure the alleged falsehoods in the debtor/defendant's reports, and thus the plaintiff itself has been damaged - but again the complaint does not include sufficient allegations (or copies of documents) for this Court to read the complaint that way.

For all of these reasons, the tentative ruling is to grant the motion to dismiss the first claim for relief, with leave to amend. **The tentative deadline for filing an amended complaint is 5/1/18.**

The debtor/defendant has raised a separate argument with respect to the first claim for relief. The tentative ruling, however, is to reject the debtor/defendant's alternative argument (adv. dkt. 7, pp.7:23-8:5) that, under Rule 9(b), Fed. R. Civ. P. (incorporated by Rule 7009, Fed. R. Bankr.P.), the complaint is not sufficiently precise about the amount of hours that were falsely

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under-reported in each report. The complaint sufficiently apprises the debtor/defendant of the grounds of the alleged fraud, and any greater specificity is a matter for discovery and proof at trial, not a defect in pleading.

(b) 11 U.S.C. 523(a)(4): fraud or defalcation while acting in a fiduciary capacity, etc.

The debtor/defendant seeks dismissal of the second claim for relief, under section 523(4), on the ground that the complaint lacks sufficient allegations that he is a fiduciary with respect to the funds at issue. The tentative ruling is that this is correct.

The complaint alleges that "amounts withheld from employee wages meant to be transmitted to the Vacation Trust" became assets of that trust "'as of the earliest date on which such contributions ... can reasonably be segregated from the employer's general assets.'" Complaint (adv. dkt. 1), p. 8, para.30 (emphasis added, quoting 29 C.F.R. 2510.3-102). In response the debtor/defendant argues (adv. dkt. 7, pp.9:12-15): "Plaintiff has failed to allege that such withholdings actually occurred and when such employee wage withholdings could be 'reasonably segregated from the employer's general assets.' Without such allegations, Plaintiff has failed to adequately allege that plan assets are at issue." (Emphasis added.)

To illustrate, consider the following hypothetical situation. Suppose that the debtor/defendant was paid \$10X by a customer, but had obligations at that time of \$15X consisting of \$5X owed to employees for their base pay, \$1X that should have been transmitted to the Vacation Trust but was not, and \$9X for various other business expenses such as rent and income taxes. Did the \$1X ever become segregated (withheld from wages) to the extent that it became a separate fund as to which the debtor/defendant had fiduciary obligations, or was the \$1X only one contractual debt among many, with no segregated fund and therefore no associated fiduciary obligations?

In a similar vein the debtor/defendant also argues (adv. dkt. 7, pp.9:16-10:17) that the allegations about purported control over plan assets are conclusory, that unpaid contributions to employee benefit funds are not plan assets, and that there are insufficient allegations in the complaint to establish that there was any pre-existing fiduciary relationship. The tentative ruling is that all of these arguments are persuasive.

The debtor/defendant cites persuasive authority in support of the

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foregoing analysis. It is one thing if an employer misuses employee contributions to a trust fund, but if the funds have never reached the employee and instead are contributions that the employer was supposed to make then the failure to pay that contribution is not, by itself, enough to establish a fiduciary relationship with respect to those funds. See *In re Quinones*, 537 B.R. 942, 945 n.2 (Bankr. N.D. Cal. 2015) (distinguishing employer contributions "from the situation where an employer has control over funds that were withheld from employees' paychecks"). The complaint does not include sufficient allegations to determine which type of contribution is at issue.

In sum, the complaint does not contain enough allegations about the precise relationships among the parties so as to be able to figure out when the debtor/defendant's duties arose and to whom. The tentative ruling is to set the same deadline to amend the complaint as for the first claim for relief.

Unless this Court is persuaded to depart from the foregoing tentative ruling it will be adopted as this Court's final ruling on the motion to dismiss. The debtor/defendant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(3) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge) at this time? The tentative ruling is to set a deadline of **5/1/18** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(4) Deadlines: This adversary proceeding has been pending since 2/5/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

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Ricky Grayson

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Dispositive motions to be heard no later than: TBD

Joint Status Report: 6/5/18

Continued status conference: 6/19/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Continue to 4/17/18 at 11:00 a.m. to be heard concurrently with defendant's motion to dismiss. Appearances are not required on 4/10/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricky Grayson

Represented By
Yelena Gurevich

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CONT... Ricky Grayson

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Defendant(s):

RICKY TYRONE GRAYSON

Represented By
Ryan A. Stubbe

Plaintiff(s):

Construction Laborers Trust Funds

Represented By
Marsha M Hamasaki
Jeffry D Sackman

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel
Sonia Singh

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2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

#3.00 Cont'd status conference re: Complaint to determine dischargeability of debt pursuant to sections 523 and 727 of the United States Bankruptcy Code
fr. 9/4/18,10/9/18, 11/27/18, 01/08/19, 2/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/5/19:

Appearances required.

The parties are directed to address (1) why no status report was filed as required by the adopted 2/5/19 tentative ruling, and (2) whether the parties have scheduled and/or attended mediation.

The tentative ruling is to continue this status conference to 4/9/19 at 11:00 a.m, with a brief status report due by 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue to 3/5/19 at 11:00 a.m, with a brief status report due by 2/26/19. Although the latest Status Report (adv. dkt. 16) does not address whether the mandatory mediation ordered by this Court has occurred, it appears that more time is needed for mediation. Caution: If the parties do not schedule and attend mediation before the next status conference, this Court may impose sanctions on the recalcitrant party(ies). Appearances are not required on 2/5/19.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19.

Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be continued? Should this adversary proceeding be dismissed for lack of prosecution?

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CONT... Douglas Lawrance DeCoster

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. *Cf.* adv. dkt. 7 (belated request for mediation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter

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final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By
Charles J Brash

Plaintiff(s):

Kieran Graner

Represented By
Stephen B Goldberg

Sharon Graner

Represented By
Stephen B Goldberg

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

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2:16-21559 David MacMillan

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Adv#: 2:17-01485 Gonzalez v. Macmillan et al

#4.00 Cont'd Status Conference re: Complaint for Fraudulent
Transfer and Declaratory Relief
fr. 12/5/17, 02/13/18, 3/20/18, 4/17/18, 07/17/18, 08/14/18,
10/16/18, 11/27/18, 12/11/18, 1/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/5/19:

Continue to 3/26/19 at 11:00 a.m., with a brief status report due 3/19/19, based on the parties' status report (adv. dkt. 69), as well as the amended discovery schedule (adv. dkt. 65, 67). At the continued hearing this Court anticipates setting a trial date, and addressing procedures such as whether direct testimony will be by declaration or live (as Defendants request). Appearances are not required on 3/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Continue to 1/29/19 at 11:00 a.m., with a brief status report due 1/15/19.
Appearances are not required on 12/11/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Continue to 12/11/18 at 11:00 a.m., per the latest status report (dkt. 56).

Appearances are not required on 11/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required. There is no tentative ruling but the parties should be prepared to address the following issues.

(1) Background

Plaintiff filed a motion (adv. dkt. 14) for summary judgment on his first claim for relief (constructively fraudulent transfer) and the second claim for relief (declaratory relief that the purported trust is ineffective to prevent creditors from reaching the assets) in his complaint (adv. dkt. 1). This Court issued an order (adv. dkt. 31) denying summary judgment on the first claim but granting it on the second, for the reasons stated therein - principally the reasons in the Revised Tentative Ruling for 3/20/18 (reproduced below).

Defendants appealed. The District Court dismissed the appeal as interlocutory. See adv. dkt. 52, 53. The parties' joint status report states (adv. dkt. 54, p.4, sec.G) that they have executed but not filed a stipulation "that the dismissed appeal can be re-filed as an interlocutory appeal but on the condition that the trial proceed on the remaining fraudulent transfer claim for relief."

(2) Current issues

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It is not clear what the parties intend, or what procedural steps this Court should take. Whatever is in the parties' unfiled stipulation presumably will not bind the District Court (or any other court hearing the appeal) in deciding whether to grant leave to appeal this Court's interlocutory ruling, so what do the parties hope to accomplish with their stipulation? Moreover, the parties' stated intention to proceed simultaneously in both this Bankruptcy Court and the District Court usually is not possible because an appeal generally deprives this court of jurisdiction. Cf. Rule 54(b) (Fed. R. Civ. P., incorporated by Rule 7054, Fed. R. Bankr. P.), and compare Rule 8008 (Fed. R. Bankr. P.). To the extent, if any, that this Court has discretion to grant any relief that would make such dual-tracking possible, is that an appropriate use of judicial resources? On a separate issue, if the plaintiff intends to proceed with the first claim for relief, does the plaintiff plan to amend the complaint to cure the deficiencies in that claim (constructively fraudulent transfer) noted in the tentative ruling for 3/20/18?

The tentative ruling is to continue this status conference to 11/6/18 at 11:00 a.m. with a deadline of 10/23/18 for the parties to file and serve whatever papers they deem appropriate to address the foregoing issues and any other relevant issues at this stage of these proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Continue to 10/16/18 at 11:00 a.m., with a brief status report due 10/2/18. See status report (adv. dkt. 51). Appearances are not required on 8/14/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

Continue to 8/14/18 at 11:00 a.m. as requested by the parties in their joint status report (see adv. dkt. 50), with a brief status report due 7/31/18. Appearances are not required on 7/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). There is no tentative ruling, but the parties should apprise this court about the status of any appeals or other matters (see dkt. 31, order granting in part plaintiff's motion for summary judgment, and dkt. 35, notice of appeal). The tentative ruling is to set a continued status conference for 7/17/18 at 11:00 a.m., with a brief status report due 7/6/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 3/20/18:

Appearances required.

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(1) Motion for summary judgment (adv. dkt. 14-18, the "MSJ"); opposition papers (adv. dkt. 22-25); and reply papers (adv. dkt. 26-27). The tentative ruling is to deny in part and grant in part the MSJ, as set forth below.

(a) Legal standards. The legal standards governing motions for summary judgment are well known, do not appear to be disputed by the parties, and need not be repeated in this tentative ruling.

(b) First claim for relief (fraudulent transfer). Although the complaint (adv. dkt. 1) asserts fraudulent transfer claims under both California law and the Bankruptcy Code, the MSJ limits this to 11 U.S.C. 548. The MSJ also asserts only constructive, not actual, fraud. See adv. dkt. 14, pp.2:21-3:1.

The complaint alleges less than reasonably equivalent value (11 U.S.C. 548(a)(1)(B)(i)) - namely, transfers by the debtors/defendants for no value from the debtors and/or their revocable trusts (the assets of which apparently could be reached by creditors) to irrevocable trusts. But to establish the elements of a constructively fraudulent transfer the plaintiff must also establish one of three types of insolvency (commonly referred to as "balance sheet," "inadequate capital," or "cash flow" insolvency) or else a transfer to an insider under an "employment contract." See 11 U.S.C. 548(a)(1)(B)(ii)(I)-(IV). There is no allegation about any employment contract, so the plaintiff must establish some type of insolvency.

The MSJ refers to balance sheet insolvency (11 U.S.C. 101(32A)). But the complaint never alleges that type of insolvency, so the plaintiff cannot be granted partial summary judgment as to that element (11 U.S.C. 548(a)(1)(B)(ii)(I)).

The complaint alleges inadequate capital and inadequate cash flow (in language that roughly parallels 11 U.S.C. 548(a)(1)(B)(ii)(II)&(III)). But the MSJ extrapolates that those types of insolvency could be presumed based on the bankruptcy schedules many months after the transfer, and from the sheer number of lawsuits and eventual judgments against the defendants and other circumstantial evidence. Those things might (or might not) be persuasive at trial, but they are insufficient to establish a lack of genuine issue of fact.

(c) Second claim for relief (declaratory relief related to nature of the trusts). The complaint (adv. dkt. 1, para. 23) seeks a declaratory judgment (i) that the debtors/defendants are "beneficiaries" of the trusts within the meaning of

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California Probate Code 15304, (ii) that the benefits the debtors/defendants receive from the trusts are "property of the estate" under 11 U.S.C. 541, and (iii) that the trusts qualify as "self-settled trusts" under California law, which the MSJ uses as shorthand for a trust the assets of which are reachable by creditors.

Various provisions of the Bankruptcy Code define what property is part of the bankruptcy estate:

The bankruptcy estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). It does not include, however, "any power that the debtor may exercise solely for the benefit of another," 11 U.S.C. § 541(b)(1), nor does it include "[p]roperty in which the debtor holds ... only legal title and not an equitable interest." 11 U.S.C. § 541(d). Similarly, the estate does not include property containing "[a] restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law." 11 U.S.C. § 541(c)(2). [*In re Cutter*, 398 B.R. 6, 18-19 (9th Cir. BAP 2008).]

Under California law:

(a) If the settlor is a beneficiary of a trust created by the settlor and the settlor's interest is subject to a provision restraining the voluntary or involuntary transfer of the settlor's interest, the restraint is invalid against transferees or creditors of the settlor. The invalidity of the restraint on transfer does not affect the validity of the trust.

(b) If the settlor is the beneficiary of a trust created by the settlor and the trust instrument provides that the trustee shall pay income or principal or both for the education or support of the beneficiary or gives the trustee discretion to determine the amount of income or principal or both to be paid to or for the benefit of the settlor, a transferee or creditor of the settlor may reach the maximum amount that the trustee could pay to or for the benefit of the settlor under the trust instrument, not exceeding the amount of the settlor's proportionate contribution to the trust. [California Probate Code 15304]

The California Supreme Court has held that to the extent that the settlor of a trust is also a beneficiary, creditors can reach the property held by the trust:

It is against public policy to permit a man to tie up his property in

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such a way that he can enjoy it but prevent his creditors from reaching it, and where the settlor makes himself a beneficiary of a trust any restraints in the instrument on the involuntary alienation of his interest are invalid and ineffective. Since [the settlor] was the sole beneficiary, all the property in the trust is subject to the claims of his creditors. [*Nelson v. Cal. Trust Co.*, 33 Cal.2d 501, 501-02 (1949) (emphasis added)]

These principles have been more recently reaffirmed in a decision of the Ninth Circuit Court of Appeals:

[U]nder California law, a settlor of a spendthrift trust cannot also act as beneficiary of that trust (*i.e.*, California law prohibits "self-settled" trusts). See Cal. Prob.Code § 15304(a) (West 1987). California law voids self-settled trusts to prevent individuals from placing their property beyond the reach of their creditors while at the same time still reaping the bounties of such property. See *Nelson v. California Trust Co.*, 33 Cal.2d 501, 202 P.2d 1021, 1021 (Cal. 1949). [*In re Moses*, 167 F.3d 470, 473 (9th Cir. 1999)]

In addition, the MSJ cites authority that if beneficiaries exercise "excessive" control over a trust then under California law they cannot "shield that trust with an anti-alienation provision lacking true substance." *In re Moses*, 167 F.3d 470, 473 (9th Cir. 1999) (citation omitted) (emphasis added). See also *In re Cutter*, 398 B.R. 6, 22 (9th Cir. BAP 2008). MSJ (adv. dkt. 14, p.10:1-14).

The debtors argue that their situation is different from that in *Cutter* because "the Debtor in *Cutter* could potentially use all the Trust's principal and income to maintain his standard of living, without limitation" whereas "[t]here is no such provision" in the debtors' trusts. Dkt. 22, p.3:22-26 (italics added to case name). That distinction of *Cutter* (and the other authorities cited above) is unpersuasive.

The MSJ points to the following facts in support of its argument that (i) the debtors are also beneficiaries and (ii) the anti-alienation provisions of the trust lack "true substance." The debtor/defendants do not raise any genuine contrary issues of fact.

(i) The debtors deducted mortgage interest and real estate taxes on their 2015 tax returns. See dkt. 18, p.4:5-9 (and evidence cited therein).

(ii) During the "initial period" of the trusts (the earlier of the grantors' deaths or 16 years) the debtors can continue to live in the property rent-

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free. See Dkt. 18, p.4:10-15 (and evidence cited therein).

(iii) During that same period, any net income or excess cash is distributed to the debtors. See Dkt. 18, p.4:16-21 (and evidence cited therein).

(iv) The debtors can manage the property as "absolute owners." See Dkt. 18, p.4:22-28 (and evidence cited therein).

(v) The debtors can loan money to themselves and/or use the property to secure loans to themselves. See Dkt. 18, p.5:2-7 (and evidence cited therein).

(vi) During their lifetime, the debtors can make discretionary distributions to their children, and upon their deaths the trust assets are to be distributed to their children. See Dkt. 18, p.5:8-12 (and evidence cited therein).

Based on the foregoing, it appears that the debtors are indeed beneficiaries of the trusts to a large extent, and moreover the anti-alienation provisions of the trust lack "true substance" as that term has been used in the cited authorities. Accordingly, the tentative ruling is to grant the MSJ on the second claim for relief.

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. The applicable deadlines are reflected in this court's orders (adv. dkt. 7, 20). The parties should be prepared to address whether there are any non-mooted matters left to resolve in this adversary proceeding, if this Court is not persuaded to depart from the foregoing tentative ruling on the MSJ.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 2/13/18:

Continue this status conference to be concurrent with the hearing on the pending

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summary judgment motion, which is presently scheduled for 3/20/18 at 11:00 a.m. Appearances are not required on 2/13/18.

This court has reviewed the parties' late-filed joint status report (adv. dkt. 10, 11) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (at the hearing on 12/5/17). See also adv. dkt. 10, 11.

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. The applicable deadlines are reflected in this court's orders (adv. dkt. 7, 20).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/5/17:

Appearances required. The court has reviewed the parties' joint status report (dkt. 5) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th

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Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

This court recognizes that, at least at this stage, the attorney who filed the answer (dkt. 4) for both trustees of the trust has also executed the Status Report (dkt. 5) on behalf of one of the defendant trustees (the debtor/defendant) asserting that neither of them can consent to this Bankruptcy Court entering a final judgment because third party beneficiaries of the trust allegedly have a right to have their rights litigated "outside of this venue." Counsel for the answering defendants should be prepared (a) to explain whether this is a *Stern* objection or something else and (b) whether both answering defendants or only one of them takes this position, and if the former, why he did not execute the status report on behalf of both of them.

Counsel for the plaintiff should be prepared to address whether the plaintiff contends that there are no additional parties who need to be joined, and why.

(2) Mediation. The plaintiff suggests in the Status Report (adv. dkt. 5) that mediation, if any, should not be ordered before dispositive motion(s) are heard, which the plaintiff anticipates will be by 3/1/18. The tentative ruling is to revisit the issue of mediation after that date.

(3) Deadlines: This adversary proceeding has been pending since 9/26/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 3/1/18

Expert(s) - deadline for reports: 2/20/18

Expert(s) - discovery cutoff (if different from above): 3/1/18

Dispositive motions to be heard no later than: 3/13/18

Joint Status Report: 1/30/18

Continued status conference: 2/13/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 4/10/18

Pretrial conference: 4/17/18 at 2:00 p.m.

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Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 4/19/18 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")
Trial commencement: 4/23/18 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

#1.00 Combined hrg re: Disclosure Statement and Chapter 11 Plan

Docket 63

***** VACATED *** REASON: Scheduled for 4/2/19 at 1:00 p.m. [dkt. 77]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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2:18-17217 Benjamin Saeedian

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 07/17/18, 7/20/18, 9/18/18, 10/16/18, 11/27/18,
01/08/19, 2/5/19

Docket 9

Tentative Ruling:

Tentative Ruling for 3/5/19:

Appearances required.

(1) Current issues

(a) Finances and exit strategy

Debtor's latest monthly operating reports (dkt. 56, MOR#7 for Dec. 2018 and dkt. 67, MOR #8 for Jan. 2019) appear to show that Debtor is barely keeping his head above water, even though he is not making adequate protection payments - he is over \$45,000 behind on monthly payments to Ocwen Loan Servicing. Debtor should be prepared to address whether this Bankruptcy Court should dismiss or convert this case, whether Debtor can propose a viable exit strategy from this bankruptcy case, and when to set a deadline to file (not serve) an initial draft Plan and draft Disclosure Statement.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: If this case is not dismissed or converted, 4/9/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue as set forth below. Appearances are not required on 2/5/19.

(1) Current issues

(a) Application to employ bankruptcy counsel (dkt. 26)

This Court has reviewed the supplemental declarations (dkt. 62, 63, 64), and is satisfied that this Court's concerns from the 1/8/19 hearing have been adequately addressed. The tentative ruling is to approve the Application to employ the law offices of Raymond H. Aver (dkt. 26).

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Finances and exit strategy

Debtor's latest monthly operating report (dkt. 56, MOR#7 for Dec. 2018) appears to show that Debtor is barely keeping his head above water. At the continued status conference this Court anticipates addressing whether Debtor can propose a viable exit strategy from this bankruptcy case, and when to set a deadline to file (not serve) an initial draft Plan and draft Disclosure Statement.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/8/19:

Continue as set forth below, so that Debtor's proposed counsel can further supplement the employment application. Appearances are not required on 1/8/19.

(1) Current issues: professionals

Debtor's latest declaration in support of the application to employ the law offices of Raymond H. Aver (dkt. 55) states that Debtor's friend, Mr. Michael Baradaran (the "Funder"), has agreed to pay the retainer and he "may gift all or a portion of the postpetition retainer." Dkt. 55, p.2:13-14 (emphasis added). See also dkt. 26, 32, 49, 55. That is inadequate.

What would the non-gift portion be? A loan (unsecured, presumably)? An investment (some sort of arrangement akin to an equity infusion into a business)? When and how would those things be decided?

The lack of complete disclosure by Debtor and proposed counsel only cause this Court to have additional questions. This Court's concerns, and tentative ruling about what needs to be disclosed, are as follows.

A third party who funds a retainer for the debtor generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, proposed counsel should be prepared to address the following.

(a) Connections. What are all of the connections between the Funder, on the one hand, and the debtor's proposed counsel or any of the other types of persons listed in FRBP 2014, on the other hand -- e.g., have there been any economic or business or personal connections between the Funder and proposed counsel, or the debtor, or any creditor or other party in interest, or their respective attorneys or accountants?

(b) Terms. What are the precise agreements, understandings or expectations regarding the funds -- e.g., are the funds a loan, a gift, an investment, or something else?

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(c) Informed consent of funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? Who provided such advice: independent counsel, or the debtor's proposed counsel? Has the Funder given informed consent? Are those things in writing?

(d) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing?

(e) Other considerations. Has proposed counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

(f) Deadline. The tentative ruling is to set a deadline of 1/22/19 for Debtor to file declarations by (i) Debtor, (ii) the Funder, and (iii) proposed counsel addressing all of the foregoing issues.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required. There is no tentative ruling, but the parties should be

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prepared to address the following issues:

(1) Current issues.

(a) Application to employ Raymond H. Aver (dkt. 26) - The parties should be prepared to discuss whether proposed counsel is disinterested given that they are general counsel to Rabenu Enterprises, LLC (see U.S. Trustee's opposition, dkt. 32, and Debtor's reply, dkt. 47).

(b) Source of funds re retainer agreement - In their opposition, the U.S. Trustee raised the question of what the source of the funds for Debtor's retainer agreement is (dkt. 32). Debtor's reply provides that the source of the funds are "Saeedian's and his spouse's earnings and/or contribution from third parties." (dkt. 47, PDF p. 11). Who is this third party? Would the funds be a gift or a loan?

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/8/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Continue as set forth below. Appearances are not required on 10/16/18.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 39) and has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 6/21/18.

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- (a) Bar date: 9/24/18 (timely served, dkt. 24).
- (b) Plan/Disclosure Statement*: TBD
- (c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

Tentative Ruling for 9/18/18:

Continue as set forth below. Appearances are not required on 9/18/18.

(1) Current issues. This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. This case was filed on 6/21/18.

- (a) Bar date: 9/24/18 (timely served, dkt. 24).
- (b) Plan/Disclosure Statement*: TBD
- (c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required by counsel for the debtor but telephonic appearances are

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encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed the docket, the debtor's amended schedules (dkt. 33), and monthly operating report no. 1 (dkt. 20, for mo. ending 6/30/18). What is the \$660 "miscellaneous expense" reported on p.5? Why was that not explained in the MOR?

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (timely served, dkt. 24).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/18/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 7/17/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 17) and the other filed documents in this case.

(a) Secured claims. Why does the debtor's bankruptcy Schedule D (dkt. 18 at PDF p.11) list \$0 in secured claims (not even a disputed claim?) even though the status report (dkt. 17) states that the case was filed to stop foreclosure? How can creditor and this Court rely on the accuracy of the bankruptcy schedules in view of such inconsistency?

(b) Income. The debtor's bankruptcy Schedule I (dkt. 18 at PDF pp.19-20) lists a total of \$100/mo. in income taxes, medicare and social security.

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It lists \$0 for net income from operating a business (line 8a) despite listing multiple businesses with alleged income: "YB Design, Inc.," "Management of Rabenu Enterprises, LLC," "Babysitting services," and "Cosmetic Sales." It fails to comply with the instructions in line 8a to "Attach a statement for each ... business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." The debtor appears to be ignoring the requirements to provide disclosure as to his own income and expenses and, under this Court's order (dkt. 9, para.3), to provide equal disclosure with respect to his spouse and their businesses. How can creditors and this Court rely on the accuracy of the bankruptcy schedules and future compliance with orders of this Court in view of such non-compliance?

(c) Deadline for compliance. The tentative ruling is to set a **deadline of 7/31/18** for the debtor to file amended bankruptcy schedules correcting not only the foregoing deficiencies that this Court has identified but also any other deficiencies that the debtor and his spouse and the debtor's counsel identify after carefully reviewing the documents that the debtor has filed. If in future this Court discovers other non-compliance with the debtor's obligations to provide accurate disclosures and to comply with this Court's orders, this Court may order the dismissal or conversion of this bankruptcy case, or other remedies.

(2) Deadlines/dates. This case was filed on 6/21/18.

(a) Bar date: 9/24/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 8/14/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 7/17/18:

This court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Benjamin Saeedian

Represented By
Raymond H. Aver

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#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/17/18, 10/23/18, 11/27/18, 01/08/19, 2/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (Decl. dkt. 84; MOR #4, Jan. 2018, dkt. 86; Decl. dkt. 87; Status Report, dkt. 92, Ex.1)

The parties should be prepared to address whether Debtor's efforts to restore online travel service arrangements were adequate.

(b) Cash infusions (Decl. dkt. 84)

This Court has reviewed the supplemental declaration of Rhonda Chung and is satisfied that this Court's concerns from the 2/5/19 hearing re cash infusions have been adequately addressed.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/9/19 at 1:00 p.m., *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #3, Dec. 2018, dkt. 71; Decl. dkt. 75)

Debtor's recently reported finances are dismal, as noted in the tentative ruling for 1/8/19. It appears that Debtor's occupancy rate is less than half of what was projected (which is itself less than half of available rooms), and that Debtor is failing to pay some franchise fees, utilities, housekeeping expenses, and other items.

Debtor blames outages in its online booking services, but as noted in the limited opposition to extending exclusivity (dkt. 78) filed by First Choice Bank, Debtor's behavior in the face of problems with online booking is puzzling. Why did Debtor not proactively contact the online booking agencies around the time it filed its bankruptcy petition? Why did Debtor not monitor its own finances sufficiently to realize that those agencies had not been paid? Debtor asserts that it was given no advance notice, but that seems highly unusual, so where is evidence of the telephone calls, emails, and letters immediately reacting, objecting to being cut off with no prior notice, and offering immediate payment of any missed bills? This Court takes judicial notice that the booking agencies are large enough to be familiar names, and presumably they have experienced hotel bankruptcies before, so what reasons did they give for their alleged lack of notice and over-reaction? As the bank suggests, the outages in booking were long enough that one would expect Debtor to have made repeated and considerable efforts to resolve the situation, possibly including meetings in person, but there is no evidence of that.

All of the foregoing suggests "gross mismanagement" of the estate, which is one possible basis to dismiss or convert this case. 11 U.S.C. 1112(b)(4)(B). The facts recited above also appear to constitute a "substantial" loss or diminution of the estate, and calls into question whether there is a "reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(A). In addition, these facts call

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into question whether Debtor will be able to meet the feasibility test for any proposed plan. 11 U.S.C. 1129(a)(11).

The parties are directed to address whether this case should be dismissed or converted.

(b) Alleged infusions

There have been promises during this case that cash infusions would be made by Debtor's principal, Rhonda Chung. The Status Report (dkt. 79, p.4:8-21) alludes to some, but the precise dollars amounts are generally unclear, as are the dates, and precisely how those dollars been used. The tentative ruling is to set a deadline of 2/12/19 (if this case is not dismissed) for Ms. Chung to file a declaration, with attached evidence, addressing each of these things.

(c) Employment of bankruptcy counsel (dkt. 47, 51, 56, 67, 68, 71)

Have the objections of the United States Trustee (dkt. 51) been resolved?

(c) Motion to Extend Exclusivity Periods (dkt. 73)

Debtor is directed to addressing the issues raised by First Choice Bank's Opposition (dkt. 78).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.",

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(1) Current issues.

Debtor's status report (dkt. 72) attempts to put the best face on a dismal record of recent operations. Should this Court set deadlines to sell the estate's property/business, or impose other performance metrics and establish consequences for failure to satisfy those metrics?

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:
Appearances required.

(1) Current issues

(a) Cash collateral motion (dkt. 4). This Court has reviewed the supplemental declarations of Kenneth Chung and Rhonda Chung (dkt. 38). Those declarations provide that in the event Debtor lacks the funds necessary to make the required property tax payments, Rhonda Chung will "personally pay any short fall [o]f the Debtor to pay these taxes or, any portion of those taxes, if any, that has not otherwise been approved by the Court as an authorized Cash Collateral expense." (Rhonda Chung decl, para. 7). Would these funds be a loan or a gift? Is Rhonda Chung financially able to provide such a sum?

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(b) Creditor First Choice Bank reporting requests: In its opposition to the cash collateral motion, First Choice Bank requests that Debtor be required to provide additional reporting to insure cash collateral is not misused (dkt. 58). Does Debtor object to any of these recommendations? If so, on what grounds?

(c) Order on cash collateral. Debtor is directed to lodge a proposed final order approving the use of cash collateral, incorporating the terms of the interim order plus any additional requirements as noted above, via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Utility motion. Debtor's status report (dkt. 49) states that this motion will be withdrawn, either orally or in writing. Debtor should file a written withdrawal, so that the docket is clear.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/15/19 at 1:00 p.m., with a brief status report due 1/8/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/23/18:

Appearances required.

(1) Current issues

(a) Cash collateral motion (dkt.4). Subject to any objections at the hearing, the tentative ruling is to authorize the use of cash collateral to a limited extent, on a further interim basis, with a final hearing at the same time as the continued status conference (see below). What specific use of cash is

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authorized will depend on any supplement filed prior to the hearing and how the debtor and other parties in interest address the following issues: (i) payment of employment taxes and other withholdings, (ii) payment of income taxes, (iii) payment of sales taxes on room rentals, as well as on food, beverages, and other taxable items, and (iv) adequacy of cash flow, both actual and projected.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., with a status report on the local form due 11/13/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/17/18:

Appearances required.

(1) Current issues

(a) Payroll motion (dkt. 5). As noted in this Court's order setting this hearing (dkt. 10), this Court is concerned about whether this is a self-created emergency. In addition, the parties should be prepared to address the jobs of each person who is proposed to be paid (dkt. 7, Ex.6), whether any of them are "insiders" (11 U.S.C. 101(31)), and how they will be paid if the checks do not clear and other sources of revenue do not come through. Subject to adequately addressing those issues, and (1) confirming notice per this Court's order shortening time (dkt. 10), (2) addressing this Court's concerns in that order, and

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(3) any objections at the hearing, the tentative ruling is to grant this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt.4). The tentative ruling is to grant this motion, subject to the caveats set forth in the tentative ruling for calendar no. 2 (10/17/18 at 9:00 a.m.).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., *brief* status report due 11/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By

Christopher J Langley

Steven P Chang

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

1:00 PM

2:19-10153 Christian Rossil

Chapter 11

#4.00 Cont'd status Conference re: Chapter 11 Case
fr. 2/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/5/19:

Appearances required.

(1) Current issues

(a) Financial losses and irregularities

Debtor's first Monthly Operating Report ("MOR," Jan. 2019, dkt. 17, p.1) appears to show that Debtor started with \$2,518.85 and ended with \$25.64. How is this sustainable? It appears to match Debtor's bankruptcy Schedules I&J (dkt. 1 at PDF pp.43-46), which show negative cash flow and no anticipated future change. Although Debtor's status report (dkt. 13) states that Debtor intends to sell one property and/or evict the tenant, but the docket does not reflect any progress on those things. Based on the foregoing, the tentative ruling is to dismiss this bankruptcy case.

The same MOR appears to show that Debtor paid \$150 on a "Personal Loan" from "Samuel Samuel" via "Cash App" (dkt. 17, at PDF p.2, 1/15/19 entry) - is that an unauthorized postpetition borrowing? Alternatively, is it an unauthorized payment of prepetition debt? Either way, it appears that Debtor is violating the duties of a debtor in possession.

Likewise, the MOR shows a payment of \$479.31 to Capital One Auto Carpay for an "Automobile Loan." Dkt. 17, at PDF p.3, entry for 1/22/19. What is the explanation?

Likewise, the MOR shows a payment of \$228.96 to "Charter Communications" on 1/28/19 for "Internet (Includes Past Due Amounts)." This appears to violate the automatic stay: what will Debtor's counsel do about that?

(b) Disregarding Court order

This Court's "Order Setting Bar Date: April 16, 2019 and Directing Service by Debtor" (dkt. 14, emphasis added) specifically directed Debtor to serve a copy of that order no later than February 11, 2019. There is no proof of

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Chapter 11

such service. Why not? The tentative ruling, if this case is not dismissed, is to issue an order setting an amended bar date, and once again direct Debtor to serve a copy of that amended order on creditors (see below).

(c) Missing budget motion. At the 2/5/19 hearing and in the Initial Case Status Report (dkt. 13), Debtor represented to this Court that a budget motion would be forthcoming. As of the writing of this tentative ruling, no such motion has been filed. Why not?

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 but no notice (see above), so re-set to 5/30/19 (DO NOT service any notice - this Court will prepare an amended bar date order and that order will direct Debtor to serve it on creditors).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/9/19 at 1:00 p.m., *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Missing status report. Debtor is directed to explain why a Case Status Report was not filed, as required by this Court's order setting this status conference (dkt. 5).

(b) Missing "first day" motions. Debtor has failed to file a budget motion (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov). Debtor also has not filed any other typical "first day"

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motions (e.g., a utility motion).

(c) Negative, and inadequately supported, monthly income. Debtor appears to have a new job as a real estate broker, but even with that new (alleged) income and supplemental income as a Lyft driver he shows negative cash flow. See Bankruptcy Schedules I & J (dkt. 1 at PDF pp. 43-46).

Debtor appears to have two properties, but does not list any leases or any income from a rental property: why not?

Debtor has stated under penalty of perjury that he does not expect any changes to income or expenses (see bankruptcy Schedule I, item 13, and Schedule J, item 24). How can Debtor hope to reorganize with negative cash flow?

In addition, the (sparse) income that is reported is inadequately supported. Debtor has ignored the instructions on bankruptcy Schedule I, line 8a, to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income."

(c) Dismissal? Should this Court dismiss this case? Does the foregoing constitute a "willful failure to appear in proper prosecution" of this case, and/or a "willful" failure to comply with this Court's order setting this status conference, either of which would support dismissal with a bar under 11 U.S.C. 109(g)(1)?

(2) Deadlines/dates. This case was filed on 1/8/19. **If** this case is not dismissed, the tentative ruling is to set the following deadlines/dates:

(a) Bar date: 4/16/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Christian Rossil

Chapter 11

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
Central District of California
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2:19-10762 Koi Design LLC

Chapter 11

#5.00 Hrg re: Emergency Motion for Authority to: (A) Use Cash Collateral on an Interim Basis Pending a Final Hearing; (B) Grant Replacement Liens; and (C) Set Final Hearing

fr. 01/30/19

Docket 4

Tentative Ruling:

Tentative Ruling for 3/5/19

Please see tentative ruling in status conference (3/5/19, cal. no. 8 at 1:00 p.m.).

Tentative Ruling for 1/23/19

Grant the motion (docket no.4) on an interim basis, subject to the conditions set forth below and any opposition at the hearing, with a final hearing on 2/26/19 at 1:00 p.m., and a deadline of 2/1/19 for the movant to file and serve a notice of the final hearing. Appearances required.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion

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or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or

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any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Sefflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#6.00 Final hrg re: Emergency Motion of Debtor for an Order (1) Authorizing, But Not Requiring, Debtor to Pay Prepetition (A) Wages, Salaries, and Other Compensation, (B) Employee Medical, Workers' Compensation, Paid Time Off, and Similar Benefits, and (C) Reimbursable Employee Expenses; and (2) Authorizing and Directing Applicable Banks and Other Financial Institutions to Receive, Process, Honor and Pay Checks Presented for Payment and to Honor Fund Transfer Requests

fr. 01/30/19

Docket 3

Tentative Ruling:

Tentative Ruling for 3/5/19

Please see tentative ruling in status conference (3/5/19, cal. no. 8 at 1:00 p.m.).

Tentative Ruling for 1/30/19

Grant on an interim basis, subject to any opposition presented at the hearing, with a final hearing on 2/26/19 at 1:00 p.m., and a deadline of 2/1/19 for the movant to file and serve a notice of the final hearing. The tentative ruling is to find that such relief is necessary to "avoid immediate and irreparable harm" within the meaning of Rule 6003 (Fed. R. Bankr. P.). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Koi Design LLC

Chapter 11

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#7.00 Final hrg re: Emergency Motion for Order (I) Authorizing the Continued Use of the Debtor's Cash Management System, (II) Authorizing the Maintenance of the Debtor's Pre-Petition Bank Accounts, and (III) Requiring Banks to Release Administrative Holds and/or Freezes on the Debtor's Pre-Petition Bank Accounts
fr. 01/30/19

Docket 6

Tentative Ruling:

Tentative Ruling for 3/5/19

Please see tentative ruling in status conference (3/5/19, cal. no. 8 at 1:00 p.m.).

Tentative Ruling for 1/30/19

Appearances required. Grant on an interim basis, subject to (1) any opposition presented at the hearing, (2) assurances that Debtor is maintaining sufficient records to account for all assets and liabilities as of the petition date, and (3) assurances that Debtor has adequate safeguards against payment of prepetition claims (except whatever payments are authorized by the payroll motion). The tentative ruling is to set a final hearing on 2/26/19 at 1:00 p.m., with a deadline of 2/1/19 for the movant to file and serve a notice of the final hearing. In addition, the tentative ruling is to find that such relief is necessary to "avoid immediate and irreparable harm" within the meaning of Rule 6003 (Fed. R. Bankr. P.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 2/13/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/5/19

Appearances required by counsel for the debtor.

(1) Current issues

(a) Emergency Payroll Motion (dkt. 3)

Grant on a final basis, on the same terms as in the interim order (dkt. 28).

(b) Cash Collateral Motion (dkt. 4)

Subject to addressing the issues raised in the reservations of rights filed by creditors Wells Fargo Trade Capital Services, Inc. ("Wells Fargo," dkt. 75) and Strategic Partners, Inc. ("Strategic," dkt. 76), grant this motion on a final basis, on the same terms as in the interim order (dkt. 29).

(c) Cash Management Motion (dkt. 6)

Subject to an update from Debtor and, if they elect to appear, counsel for the United States Trustee, regarding the adequacy of Debtor's cash management procedures, the tentative ruling is to grant this motion on a final basis, on the same terms as in the interim order (dkt. 27).

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65). Note: This Court's order setting the bar date (dkt. 65) directed Debtor to serve that order on all parties in interest no later than 2/22/19. Debtor's proof of service (dkt. 82) is deficient.

First, the declarant alleges (dkt. 82, pp.1:25-2:3) that someone else (an unnamed person) served the order. That is inadequate: a declaration of service must be based on personal knowledge.

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Koi Design LLC

Chapter 11

Second, it appears that the person who served the order was someone employed by Debtor. Traditionally, service must be verified by someone who is "not a party" (see Rule 7004(a)(1), Fed. R. Bankr. P.), and Debtor has not cited any authority that the rule is different in bankruptcy cases.

The tentative ruling is to set a deadline of 3/4/19 for Debtor's counsel to re-serve the bar date order and file a proof of service that complies with the applicable rules. (This Court recognizes that this second notice of the bar date will not be received until closer to that bar date, but in the circumstances that appears to be appropriate.)

(b) Order setting principal status conference. The same deficiencies apply to the purported proof of service (dkt. 53) of this Court' order (dkt. 38) setting this principal status conference.

The tentative ruling is to set a deadline of 3/4/19 for Debtor's counsel to re-serve the principal status conference order and file a proof of service that complies with the applicable rules. (This Court recognizes that this second service of the principal status conference order will occur after the principal status conference; but in the circumstances that appears to be appropriate because that order provides official notice of important matters, such as notice that this Court can issue case-dispositive orders at any status conference.)

(c) Proofs of service generally. In addition to the foregoing, Debtor's counsel are encouraged to redouble their efforts to provide accurate proofs of service. See, e.g., dkt. 82, last page (purported proof of service that appears to refer erroneously to status report rather than the declaration to which it is attached).

(d) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(e) Continued status conference: 5/7/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Koi Design LLC

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/19

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's motion for relief from automatic stay (dkt.)

The tentative ruling is to grant this motion, on the terms and conditions set forth in calendar no. 1 (2/13/19 at 2:00 p.m.).

(b) Cash flow

Debtor is directed to provide an update on its current cash flow andd anticipated DIP financing.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: TBD (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/5/19 at 1:00 p.m., status report due 2/19/19 (see dkt. 38).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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Koi Design LLC

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/19

Appearances required. There is no tentative ruling, except that Debtor is directed to provide a brief overview of Debtor's current situation and possible exit strategies, and this Court intends to continue the status conference to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
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1:00 PM

2:18-16732 Motiv8 Investments, LLC

Chapter 11

#9.00 Cont'd hrg re: Motion for Order Authorizing 2004 Examination of Secured Creditor Crescent Capital Holdings, LLC and Production of Documents Pursuant to FRBP 2004 fr. 2/26/19

Docket 106

***** VACATED *** REASON: granted on 2/26/19**

Tentative Ruling:

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#10.00 Cont'd hrg re: Debtor's Motion for Authority to Sell Estate Property, 101 W. Las Flores Drive, Altadena, CA 91001 Free and Clear of All Liens, Claims and Interest Pursuant to 11 Section 363(f) fr. 2/26/19

Docket 102

Tentative Ruling:

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference (calendar no. 12, 3/5/19 at 1:00 p.m.)

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the status conference (calendar no. 10, 2/26/19 at 1:00 p.m.)

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

Movant(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/15/19, 2/26/19

CRESCENT CAPITAL HOLDINGS, LLC
vs
DEBTOR

Docket 78

Tentative Ruling:

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference (calendar no. 12, 3/5/19 at 1:00 p.m.)

Tentative Ruling for 2/26/19:

Please see the tentative ruling in the status conference (cal. #10, 2/26/19 at 1:00 p.m.).

Tentative Ruling 1/15/19:

Appearances required. The tentative ruling is either (1) if no evidence of insurance is provided at the hearing, or perhaps within a very short window, to grant immediate relief from the automatic stay, and otherwise (2) to require Debtor to sell the subject property immediately, and set related procedures including a continued hearing on this motion for relief from the automatic stay, all as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Background

Movant previously filed a motion (dkt. 8) for relief from the automatic stay in this case. This Court issued an adequate protection order (dkt. 31, the "APO"). The APO provides that the stay will remain in place as long as Debtor

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CONT... **Motiv8 Investments, LLC**

Chapter 11

makes adequate protection payments, but that the stay will not apply in any future bankruptcy case ("*in rem*" relief).

(2) Alleged cause for relief under 11 U.S.C. 362(d)(1)&(4)

(a) Insurance

Movant asserts that Debtor has failed to provide proof that the property is insured. See dkt. 78, p.3. Debtor's response (dkt. 83) fails to address this issue, as pointed out by Movant's reply (dkt. 85).

At the hearing, Debtor is directed to address whether the property is insured, and to make an offer of proof. This Court may be persuaded to terminate the automatic stay immediately if Debtor fails to provide adequate proof of insurance that complies with the loan documents (e.g., naming Movant as a party entitled to notice and/or as an insured party, if that is what the loan documents require).

(b) Order for relief from the stay in a related case

Movant now seeks relief again, pointing out that since the APO was issued an order granting relief from the automatic stay has been issued in a case filed by Debtor's principal and 100% equity owner, Sergio Moreno Morales. See *In re Morales* (Case No. 2:18-bk-16365-WB), dkt. 31 (issued on 7/3/18) (the "*In Rem Order*"). The In Rem Order grants relief under 11 U.S.C. 362(d)(4) - i.e., relief that is applicable notwithstanding any future bankruptcy case. By definition the In Rem Order is not applicable to this pending bankruptcy case, but Movant apparently believes the issuance of that order should be considered cause under 11 U.S.C. 362(d)(1)&(4) to modify the APO so as to terminate the automatic stay immediately.

This Court is not persuaded. First, as Debtor points, in this case there is no evidence that Debtor has failed to comply with the APO.

Second, the In Rem Order itself recites that there was no opposition to that order. In contrast, in this case Debtor has responded and adequately established, long before the In Rem Order was issued, that there were grounds to hold Debtor to a strict APO but not terminate the stay.

To summarize this Court's prior reasoning in issuing the APO, although it is true that Mr. Morales has filed multiple bankruptcy cases and previously arranged an unauthorized transfer of title to the real property from Debtor to himself, (a) title was restored to Debtor on or about 6/1/18 (see dkt. 21, p.4:5-6), (b) Mr. Morales has adequately explained his prior bankruptcy cases and the

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unauthorized transfer of title, at least for purposes of issuing the APO rather than terminating the automatic stay (see dkt. 21, pp.4:9-5:21, and 7:12-10:22), and (c) creditors would be harmed if the stay were terminated in this case. Not only does this reasoning still apply, but the APO is the law of this case, and Movant has neither briefed the standards for overcoming the law of the case nor established legal or factual grounds for reconsidering the APO.

(3) Alleged grounds for relief under 11 U.S.C. 362(d)(2)

As Debtor argues, Movant must show both (a) a lack of equity in the property and (b) that the property is not necessary for an effective reorganization. Debtor disputes both of these prongs. Ultimately, however, both parties' arguments depend on whether there is equity in the property. If there is, then the property can be sold and net proceeds distributed to creditors. If there is no equity, Debtor has not suggested any reason why the property would be necessary to an effective reorganization.

Any equity in the property is equal to the property's value minus costs of sale and liens or other encumbrances. Debtor questions whether the dollar amount that Movant claims to be owed on its lien takes into consideration the payments made under the APO. That may make a difference of a few thousand dollars. The larger issue is the value of the property.

Movant asserts that the value is \$750,000. See dkt. 78, p.8 & Ex.M, and dkt. 85 at PDF pp.11 *et seq.* (Mauch Decl.). Debtor's principal asserts (dkt. 83, pp.9:20-10:2) that Debtor has recently accepted an offer to purchase the property for \$850,000, for which he will seek this Court's approval under 11 U.S.C. 363(b)&(f). Debtor's principal also asserts (*id.*) that he believes the property is actually worth much more - approximately \$915,000 - but that "in the interest of moving Debtor's reorganization along and avoiding Movant's attempts at relief and foreclosure" he "has determined that it is in the best interest of the estate to accept a purchase price of \$850,000.00."

The tentative ruling is that the best method of determining whether Debtor has an equity in the property (and hence, in the circumstances of this case, whether the property is necessary to an effective reorganization of Debtor's finances) is to move forward with the proposed sale of the property (presumably subject to overbids). As the Supreme Court has stated, generally "the best way to determine value is exposure to a market." *Bank of Am. v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457 (1999).

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This Court takes judicial notice that Debtor has filed an application (dkt. 82) to employ a real estate broker. In other words, Debtor appears to be taking steps to proceed with the proposed sale of the property.

Accordingly, the tentative ruling is to set a deadline for Debtor to file and serve its motion to sell the property under 11 U.S.C. 363(b)&(f), and defer any other issues until after this Court determines whether or not to approve the proposed sale. The tentative ruling is that a motion to sell must be filed and served no later than 2/1/19, and self-calendared for hearing on 2/26/19 at 1:00 p.m.

In addition, the tentative ruling is to continue the present motion for relief from the automatic stay to the same time (specially set at 1:00 p.m., rather than the usual time of 10:00 a.m.). In addition, the tentative ruling is to reschedule the upcoming Status Conference in this case from 2/5/19 to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron

Movant(s):

Crescent Capital Holdings, LLC

Represented By
Amy E Martinez

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#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/10/18, 9/18/18, 10/2/18, 11/27/18, 02/05/19,
2/26/19

Docket 8

Tentative Ruling:

Tentative Ruling for 3/5/19:

Appearances required.

(1) Current issues

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

The parties must inform the Court as to the status of the Mr. Vasquez and the bankruptcy estate having separate real estate brokers (or Mr. Vasquez proceeding without a broker); how any brokers will split the 4% commission; and the other issues laid out by the Court in the tentative ruling for the 2/26/19 hearing. The tentative ruling is that the sale cannot be approved until a broker is authorized to represent the estate in the sale.

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying any attorney fees out of escrow, or paying the real estate brokers until those brokers are actually retained, but overrule those objections to the extent they object to paying costs of sale, including real estate brokers, ahead of Crescent.

(ii) Payment of the portion of Crescent's claim that is not (yet) disputed, and real estate taxes

The parties should be prepared to address whether a new closing statement has been generated to update the amount to be paid to Crescent and to show that real estate taxes will be paid out of escrow.

(iii) "Good faith" finding

If Mr. Vasquez files a declaration that comports with Judge Bason's

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procedures before the proposed order approving the sale is lodged, then the tentative ruling is to include a good faith finding in that order.

(iv) Approval of sale

Subject to all the foregoing (including that a broker must be retained before the sale can be approved), the tentative ruling is to approve the sale.

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued status conference to allow time for the sale to be completed.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m., brief status report due 4/23/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues (dkt. 111 etc.)

Debtor's proposed sale of certain real estate is intertwined with Debtor's proposed employment of a real estate broker. The tentative ruling is to go forward with the sale hearing, including any overbids, and approve the sale on a provisional basis, with a continued hearing on both the employment application and the sale motion at the same time as the continued status conference (see below).

(a) Application to employ James Gallardo as real estate broker (dkt. 112,

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113)

As pointed out by both the United States Trustee ("UST") (dkt. 104) and creditor Crescent Capital Holdings ("Crescent") (dkt.110), Mr. Gallardo is purporting to act as a dual agent, for both the seller (Debtor) and the proposed buyer (subject to overbids), Luis Vasquez. Judge Bason prohibits dual agency, as noted both in his posted Procedures (available at www.cacb.uscourts.gov) and in the order approving the prior real estate broker (dkt. 92) (Mr. Leal).

The tentative ruling is that the lack of dual agency is mandated by the disinterestedness requirements of the Bankruptcy Code and Rules, so it cannot be waived. It is irrelevant that, outside of bankruptcy, it is not uncommon for parties in real estate transactions to accept their agent's lack of disinterestedness. See Reply to Sale Motion (dkt. 115, p.3:10-21).

Accordingly, the tentative ruling is that, if the highest and best bid is that of Mr. Vasquez, then Mr. Vasquez must file a declaration confirming that he has retained his own real estate broker (who must be unaffiliated with Mr. Gallardo), and Mr. Gallardo must represent only Debtor and the bankruptcy estate (not Mr. Vasquez).

In addition, the parties are directed to address whether Mr. Gallardo and/or Debtor's counsel must pay the additional real estate broker out of either (i) a portion of the 4% commission that was to have been paid solely to Mr. Gallardo, or (ii) out of a reduction in Debtor's counsel's attorney fees, so that the bankruptcy estate is not prejudiced by Debtor's non-compliance with the prohibition on dual agency. In other words, should this Court order that the total commission to all real estate brokers combined must not exceed 4%?

In addition, there might be other grounds for objecting to Mr. Gallardo's employment, and the time for objections has not yet expired, so the employment cannot be approved yet. The employment application was served on 2/12/19, which means that objections can be filed until 3/1/19 (14 days plus 3 for service via U.S. mail). Until after that date, parties in interest and this Court will not know if, for example, someone were to object to Mr. Gallardo's employment and the proposed sale on the basis that Mr. Gallardo had an undisclosed interest in the sale.

The tentative ruling is that until Mr. Guillard's employment is approved, the sale must be only provisionally approved. The tentative ruling is that it is appropriate to shorten time (Rule 9006, Fed. R. Bankr. P.) because there is a substantial risk in any bankruptcy sale that if the sale is deferred then prospective

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purchasers may be unable or unwilling to continue to bid on the property (this Court takes judicial notice that there are considerable costs in holding a proposed sale open, if it is even possible to retain enough funds on hand to close a sale that has been deferred).

For all of the foregoing reasons, the tentative ruling is to set the employment application for hearing at the same time as the continued sale motion and continued status conference (see below).

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Continued hearing

The tentative ruling is to approve the sale (subject to overbids) on a provisional basis, with a continued hearing at the same time as the continued status conference (see below). Between now and that continued hearing, Mr. Vasquez must arrange for a separate real estate broker to represent him (or must proceed without any real estate broker), and must disclaim any reliance on any past representation by Mr. Guillard and any present representation by him. In addition, the parties can take whatever steps may be appropriate to address the issues set forth below.

(ii) No approval or payment of attorney fees at this time

The tentative ruling is to sustain the objection of the UST (dkt. 104), joined in by Crescent (dkt. 110), that attorney fees must be subject to approval by this Court pursuant to the usual procedures, and that any approval of the proposed sale shall not be deemed to be approval of the attorney fees. The tentative ruling is that the proposed attorney fees must be held by Debtor's counsel in a separate account from which funds cannot be released without further order of this Court (a "Blocked Account"). In addition, the tentative ruling is to defer any ruling on Crescent's objection that it should be paid in full before any attorney fees are allowed (dkt. 110, p.5:24-25), because the timing of any distribution of attorney fees can be addressed in connection with allowance or disallowance of those fees.

(iii) Payment of real estate taxes

Crescent objects (dkt. 110, pp.4:24-5:14) that LA County's claim for real estate taxes, estimated to be \$18,456.38, is of a lower priority than Crescent's own claim and therefore should not be paid until Crescent is paid in full. The parties are directed to address (x) whether the real estate taxes are in fact of a

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lower priority than Crescent's lien, (y) whether any doctrine of marshaling should apply (*i.e.*, whether, even if Crescent's lien is of a higher priority in this property, its claim should be paid from the sale of any other property of the estate so that LA County can be paid out of this sale, or alternatively whether LA County is entitled to a replacement lien on other property so that it is not prejudiced by the fact that this property is being sold prior to other properties), and (z) whether any disputed funds that Debtor proposes to pay either LA County or Crescent must be held in the Blocked Account pending further order of this Court.

In addition, the parties are directed to address how any accruing interest affects the analysis. For example, if funds are held in a Blocked Account pending resolution of the competing claims of LA County and Crescent, will those claims continue to accrue interest at the rate that otherwise would apply (*e.g.*, 18% or 29.99% or some other high rate), or only at the rate that is being paid by the bank at which the Blocked Account is maintained (*e.g.*, 1%)?

The parties also are directed to address what will happen if the funds are distributed to LA County (to stop interest running) but later turn out to be payable to Crescent or the bankruptcy estate. Will LA County be subject to a disgorgement order, consistent with any sovereign immunity analysis?

(iv) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying the real estate brokers until those brokers are actually retained. But the tentative ruling is to overrule Crescent's objection to the extent it is seeking to bar paying of any costs of sale, including real estate brokers, until it is paid in full, because those costs are properly chargeable out of Crescent's collateral. See dkt. 110, p.4:5-7; 11 U.S.C. 506(c).

(v) Payment of the portion of Crescent's claim that is not (yet) disputed

Crescent objects that Debtor has had considerable time in which to file any objection to its claim, but has yet to do so, and that the only portion of its claim as to which an objection has been outlined is the default interest. The tentative ruling is that this objection is well taken: not until 2/13/19 did Debtor assert that it would object to Crescent's claim on the additional ground of not fully funding the construction loan. See dkt. 114, p.4, para.7; dkt. 115, p.4:24-26. The tentative ruling is that this last minute suggestion of a possible type of claim objection is insufficient to support Debtor's proposal to withhold all distributions

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from Crescent.

In other words, the tentative ruling is that Debtor must pay all principal and non-default interest through the date of closing of escrow, plus all other charges included in the proof of claim, without prejudice to Crescent seeking additional charges and default interest, and conversely without prejudice to Debtor objecting at a later time to any charges (other than principal and non-default interest). This means that Debtor would have to pay out of escrow not only principal and non-default interest but also any attorney fees, late fees, or other charges included in the Proof of Claim, and Crescent subsequently could seek additional attorney fees and other charges, but Debtor subsequently could object both to any attorney fees and other charges that have already been distributed and to any new attorney fees and other charges.

The foregoing tentative ruling attempts to balance Debtor's broad rights to object to claims at any time against Debtor's unexplained delay in raising these issues, and against Crescent's rights (consistent with this Court's adequate protection order) to receive distributions without undue delay.

Debtor's latest closing statement (dkt. 114, Ex.A, at PDF p.6) lists the "Loan Payoff" as "To Be Determined" but with an (estimated) amount of \$512,500. Crescent is directed to address at the hearing the approximate dollar amount that will comport with the foregoing tentative ruling.

(vi) "Good faith" finding

The tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or

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employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders. [Judge Bason's posted Procedures, available at www.cacb.uscourts.gov]

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued hearing on the Sale Motion.

(d) Motion for 2004 Examination (the "2004 Motion," dkt. 106)

Grant in part and deny in part as follows. The tentative ruling is to exercise this Court's discretion to limit discovery in keeping with the general principles set forth in Rule 26(b) and 45(d)&(e) (Fed. R. Civ. P.) and Rules 7026, 9016 and 9018 (Fed. R. Bankr. P.). Without limiting the foregoing, this Court is particularly aware that (i) although Debtor has yet to file any actual objection to Crescent's claim, that is clearly contemplated; (ii) Crescent has an interest in maintaining the confidentiality of its loan-analysis methodology; and (iii) Debtor has not shown that it lacks its own records on many of the issues on which it seeks discovery and that the relative burdens and benefits weigh in its favor.

The tentative ruling is that no later than 3/15/19 Crescent must produce the documents listed below (the list is excerpted from the 2004 Motion) and that Crescent's person most knowledgeable about the subject matter of those document requests must appear for examination at Debtor's bankruptcy counsel's law offices on 4/5/19 at 10:00 a.m. The document requests/subject matter that this Court tentatively will allow is as follows:

- (1) "ALL COMMUNICATIONS between YOU and the DEBTOR RELATING TO THE \$500,000 LOAN" (dtk. 106, PDF p.23, Section A.6)
- (2) "ALL DOCUMENTS, including COMMUNICATIONS, RELATING TO YOUR assessment of the default interest rate with respect ot he \$500,000 LOAN" (*Id.* at PDF p.24, Section A.11)
- (3) "ALL DOCUMENTS referring or relating to YOUR calculations of damages that YOU would sustain in the event of any default under the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.17)

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- (4) "ALL DOCUMENTS referring or relating to YOUR analysis of the appropriate default interest to apply to the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.18)
- (5) "ALL DOCUMENTS referring or relating to YOUR efforts to arrive at a default interest rate that was intended to compensate YOU for actual anticipated damages that would result from a default under the \$500,000 LOAN" (*Id.* at PDF p. 25, Section B.22)
- (6) "All appraisals or title reports completed RELATING TO the REAL PROPERTY" (*Id.* at PDF p.26, Section B.26)

The tentative ruling is, notwithstanding Debtor's reply (dkt. 117), to sustain Crescent's objections (dkt. 109) to the remaining questions, without prejudice to Debtor seeking further discovery (either under Rule 2004 or under other discovery rules, as appropriate) based upon a proper showing. For example, as noted above Debtor now contemplates that it might object to Crescent's claim based on Crescent not fully funding the construction loan, but Debtor provides no information about the facts and circumstances, which might assist Crescent and this Court to evaluate whether discovery is or is not focused on relevant issues.

Did Crescent promise to fund the loan with no strings attached, or did it impose performance metrics, or was the remaining funding within Crescent's sole discretion? What dollar amount did Crescent refuse to fund? When did it do so? What reasons, if any, did it give? Is Debtor contemplating a breach of contract objection, or a tort claim, or both?

In addition, the tentative ruling is to overrule Crescent's remaining objections as follows:

(i) LBR 2004-1(a): While the conference between Debtor and Crescent may not have been productive (dkt. 109, p.2), this Court is satisfied that for present purposes, the parties have "attempt[ed] to confer" as required by LBR 2004-1(a).

(ii) LBR 9013-1: Although the amount of notice of Debtor's 2004 Motion was short, Crescent has not shown that it was prejudiced by such shortened notice. The tentative ruling is to excuse any untimeliness in the 2004 Motion.

(iii) Laches: Crescent has not alleged sufficient delay to persuade this Court that relief based on laches is appropriate.

(2) Deadlines/dates. This case was filed on 6/11/18.

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- (a) Bar date: 2/8/19 (timely served, dkt. 67)
- (b) Plan/Disclosure Statement*: TBD.
- (c) Continued status conference: 3/5/19 at 1:00 p.m., no written status report required

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:
Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). Once again, the bar date order has not been served. But in view of Debtor's substitution of new counsel, the tentative ruling is to set yet another new bar date as set forth below.

(b) Advantage Realty Group Attempted Sale Properties. The parties should be prepared to address the status of any contemplated marketing and sale of properties.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set to 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to

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dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). The order directs the debtor to serve all parties in interest no later than 7/16/18 but no proof of service appears on the docket. Why not? The tentative ruling is to set a new bar date of 12/7/18 (the debtor should not serve any notice at this time; this Court will prepare and issue the order after the hearing).

(b) Application to Employ Hector Perez/Advantage Realty Group (dkt. 33). There is no tentative ruling, but the parties should be prepared to address (1) the issues raised in the opposition by Crescent Capital Holding LLC (dkt. 45); (2) whether the debtor is seeking to employ Mr. Perez, or Advantage Realty Group, or both; and (3) the absence of Local Form 2014-1 (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov).

(2) Deadlines/dates. This case was filed on 6/11/18.

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(a) Bar date: to be re-set see above.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/16/18 at 1:00 p.m., *brief* status report due 10/4/18

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18:

Appearances required by counsel for the debtor and by the debtor itself.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 18) and other relevant documents.

(a) Status Report. Debtor used an old form of status report. Judge Bason's current posted procedures require the use of local form F 2081-1.1.C11.STATUS.RPT. Counsel is directed to review Judge Bason's posted procedures and to use the appropriate form status report in future.

(b) Motion for relief from automatic stay. There is no tentative ruling, but the debtor and Crescent Capital Holding LLC should be prepared to address the issues raised in the motion (dkt. 17) and debtor's response (dkt. 21) regarding the Las Flores property, including the previous grant of "in rem" relief against the property, and whether the debtor has provided sufficient evidence of insurance on the property.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 9/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/28/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S.

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Hearing Room 1545

1:00 PM

CONT...

Motiv8 Investments, LLC

Chapter 11

Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Kevin Tang

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, March 5, 2019

Hearing Room 1545

1:00 PM

2:14-27656 Carlo Bondanelli

Chapter 7

Adv#: 2:17-01547 Mastan v. Bondanelli et al

#13.00 Telephonic Status Conference re: Mediation Logistics and Briefing

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Judge Bason intends to address with the parties the length of mediation briefs, any exhibits, and other procedural issues in connection with the mediation (see Judge Bason's posted Procedures, available at www.cacb.uscourts.gov, under "mediation").

If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Carlo Bondanelli

Represented By
John D Monte
Nathan D Meyer
Michael J Glenn

Defendant(s):

Carlo Bondanelli

Represented By
Michael J Glenn

Carlo Bondanelli, as trustee of St.

Represented By
Michael J Glenn

St. Joseph's Investments, Inc.

Represented By
Michael J Glenn

**United States Bankruptcy Court
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CONT...

Carlo Bondanelli

Chapter 7

St. Joseph's Investments, Inc. in its

Represented By
Michael J Glenn

Does 1-10, Inclusive

Pro Se

Movant(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Plaintiff(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Trustee(s):

Peter J Mastan (TR)

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

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Tuesday, March 5, 2019

Hearing Room 1545

1:00 PM

2:14-27656 Carlo Bondanelli

Chapter 7

Adv#: 2:17-01549 Mastan v. Desert Solis, Inc., a California corporation et al

#14.00 Telephonic Status Conference re: Mediation Logistics and Briefing

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Judge Bason intends to address with the parties the length of mediation briefs, any exhibits, and other procedural issues in connection with the mediation (see Judge Bason's posted Procedures, available at www.cacb.uscourts.gov, under "mediation").

If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Carlo Bondanelli

Represented By
John D Monte
Nathan D Meyer
Michael J Glenn

Defendant(s):

Desert Solis, Inc., a California

Represented By
Michael J Glenn

DOES 1-10, Inclusive

Pro Se

Movant(s):

Peter J Mastan

Represented By
John P Reitman

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CONT...

Carlo Bondanelli

Chapter 7

Aleksandra Zimonjic
Jack A Reitman

Plaintiff(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Trustee(s):

Peter J Mastan (TR)

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

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Hearing Room 1545

1:00 PM

2:14-27656 Carlo Bondanelli

Chapter 7

Adv#: 2:17-01550 Mastan v. Civitas Incorporated., a California corporation et

#15.00 Telephonic Status Conference re: Mediation Logistics and Briefing

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Judge Bason intends to address with the parties the length of mediation briefs, any exhibits, and other procedural issues in connection with the mediation (see Judge Bason's posted Procedures, available at www.cacb.uscourts.gov, under "mediation").

If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Carlo Bondanelli

Represented By
John D Monte
Nathan D Meyer
Michael J Glenn

Defendant(s):

Civitas Incorporated., a California

Represented By
Michael J Glenn

St. Joseph's Investments, Inc., a

Represented By
Michael J Glenn

DOES 1-10, Inclusive

Pro Se

**United States Bankruptcy Court
Central District of California
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CONT... Carlo Bondanelli

Chapter 7

Movant(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Plaintiff(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Trustee(s):

Peter J Mastan (TR)

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

2:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#1.00 Cont'd hrg re: Motion for Relief from Stay [RP]
(2720 Homestead Rd, Suite 200, Park City UT 84098)
fr. 12/12/17, 02/13/18, 5/22/18, 08/07/18, 10/2/18, 10/26/18,
12/6/18, 2/5/19

WELLS FARGO BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 144

Tentative Ruling:

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 8/7/18 (same as for 5/22/18, 2/13/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.",

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CONT... **Layfield & Barrett, APC**
"Instructions/Procedures").

Chapter 11

There is no tentative ruling, but the trustee should be prepared to address the status of the trustee's investigation into the alleged pre-petition transfer.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/12/17:

Continue to 2/13/17 at 10:00 a.m. Appearances are not required on 12/12/17.

(1) Reasons for continuance

(a) Insufficient Service

The proof of service filed in support of the motion does not reflect service on the debtor to the attention of the appropriate person(s), in accordance with Rules 4001 and 7004(b)(3) (incorporated by Rule 9014(b), Fed. R. Bankr. P.), and Local Bankruptcy Rule 4001-1(c)(1)(C)(i). Under Judge Bason's posted procedures (at www.cacb.uscourts.gov), he generally does not *sua sponte* require that specific individuals be named - service can be "Attn: Officer or Managing/General Agent" or a similar phrase - but in the circumstances of this case, in which there are disputes regarding who is or is not authorized to represent the debtor, Judge Bason will direct that service be (i) on the debtor at its address of record "Attn: Philip Layfield, Officer of Record" and also, in a separate envelope, (ii) on the debtor at its address of record "Attn: Any Officer Other Than Philip Layfield."

(b) Chapter 11 Trustee's Request for Extension

This court has reviewed the chapter 11 trustee's reponse (dkt. 152) to the motion, and movant's reply (dkt. 159). Given that this case is an involuntary case and the trustee has not had the benefit of any bankruptcy schedules, any statement of financial affairs, or access to the debtor's principals, this court is not

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CONT... Layfield & Barrett, APC

Chapter 11

persuaded by movant's argument that the trustee has already had sufficient time to investigate the alleged pre-petition transfer. In addition, the trustee has provided adequate evidence that the equity cushion and the relatively short delay provide adequate protection.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Jennifer Witherell Crastz

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
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2:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#2.00 Cont'd hrg re: Motion for Relief from Stay [RP]
(2720 Homestead Rd, Suites 210 & 220, Park City UT 84098)
fr. 12/12/17, 02/13/18, 5/22/18, 08/07/18, 10/2/18,
10/26/18, 12/6/18, 2/5/19

WELLS FARGO BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 143

Tentative Ruling:

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 8/7/18:

Please see the tentative ruling for calendar no. 37, on the 10:00 a.m. calendar,

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CONT... Layfield & Barrett, APC
8/7/18.

Chapter 11

Tentative Ruling for 5/22/18:

Please see the tentative ruling for calendar no. 30, on the 10:00 a.m. calendar, 5/22/18.

Tentative Ruling for 2/13/18:

Please see the tentative ruling for calendar no. 26, on the 10:00 a.m. calendar, 2/13/18.

Tentative Ruling for 12/12/17:

Continue to 2/13/17 at 10:00 a.m. Appearances are not required on 12/12/17.

(Same reasons as for calendar no. 10, on the 10:00 a.m. calendar, 12/12/17.)

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Jennifer Witherell Crastz

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
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2:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#3.00 Cont'd Status Conference
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19

Docket 323

Tentative Ruling:

Tentative Ruling for 3/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(2) Matters on Calendar Today

(a) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address whether there has been any new information regarding the sale of Units 210 & 220. If there is no progress with a sale, this Court's tentative ruling would be to grant relief from stay as to Units 210 & 220 due to the diminishing equity cushion (dkt. 143). As Unit 200 has been successfully sold, dkt. 144 is moot.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/26/19 at 2:00 p.m. to be concurrent with status conferences in the Lay-Invol case and in an adversary proceeding in the L&B case (Adv. No.

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CONT...

Layfield & Barrett, APC

Chapter 11

19-1315). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 2/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(b) Lay-Invol 341(a) Meeting

The parties should be prepared to address appropriate remedies for Mr. Layfield's failure to appear at the meeting of creditors (11 U.S.C. 341(a)) scheduled for 1/22/19.

(c) Christine Layfield Delaware bankruptcy case

The parties should be prepared to address any effects of the chapter 7 bankruptcy case filed by Mr. Layfield's spouse, as reported by the L&B Chapter 11 Trustee (L&B dkt. 401, p.7). To what extent does the trustee of that bankruptcy estate assert interests in these related cases? Are there discussions regarding any stipulations for relief from the automatic stay, coordination regarding venue of any proceedings, and/or coordinating other matters as between the estates?

(2) Matters on Calendar Today

(a) Motion to Sell 2720 Homestead Rd, Unit 200, Park City Utah (L&B dkt. 391)

The parties should be prepared to address the issues raised by Wells Fargo (L&B dkt. 396) and Toll Creek Owners Association, Inc. (L&B dkt. 397), as well as Movant's reply (L&B dkt. 402). In addition, if the objections are resolved or overruled and the sale goes forward (subject to overbids), the tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should

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Layfield & Barrett, APC

Chapter 11

address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. See generally *In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

(b) Wells Fargo Relief from Stay Motions (dks. 143, 144)

The parties should be prepared to address the issues raised in Wells Fargo's status report (L&B dkt. 399) regarding all of the condominium units. The tentative ruling is to continue the Relief from Stay Motions to 3/5/19 at 2:00 p.m., with a deadline of 2/12/19 for the Trustee to provide Wells Fargo an updated written report describing the listing price(s), showings, and offers for Units 210 and 220. The tentative ruling is also to extend the previously entered orders for filing under seal (L&B dkt. 387, 388) to any brief the parties wish to file in connection with the continued hearing.

(c) Wellgen Standard v. Maximum Legal (17-1503) Status Conference

The parties should be prepared to address the status of the purported settlement of this adversary proceeding.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/5/19 at 2:00 p.m., to be concurrent with the related relief from stay

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CONT...

Layfield & Barrett, APC

Chapter 11

hearings (regarding the Utah Condo matters), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 12/18/18:

Appearances required

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of the three related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."), (c) *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA").

(2) Matters on Calendar Today

(a) Chapter 7 Trustee's Motion for Order (1) Approving Stipulation Relating to Disbursement of Funds, and (2) Closing Case (Max-CA, dkt. 137)

The tentative ruling is to grant this motion, but the parties should be prepared to address the effect on the pending adversary proceeding entitled *Wellgen Standard LLC v. Maximum Legal (California), LLP et al.* (L&B Case, No. 2:17-bk-19548-NB; Adv. No. 2:17-ap-01503-NB) (the "Wellgen Adv.P.").

On a related matter, as part of case management in the L&B case, the tentative ruling is to continue the Status Conference currently set in the Wellgen Adv.P. from 1/15/19 at 11:00 a.m. to the same date and time as the Status Conferences in the related bankruptcy cases, set forth below.

(b) Final Fee Application of SulmeyerKupetz (Max-CA, dkt. 131)

Grant: \$12,693.52 in fees and \$52.48 expenses.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the

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Layfield & Barrett, APC

Chapter 11

status conferences in the L&B and Lay-Invol cases to 2/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), with a *brief* status report by the trustees due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Rulings for 12/6/18 and prior:

[OMITTED FOR BREVITY, AND BECAUSE THEY HAVE BEEN LARGELY MEMORIALIZED. See, e.g., L&B dkt. 367, 377]

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
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2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#4.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 9/4/18, 9/18/18, 10/26/18,
12/6/18, 12/18/18, 2/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/18/18:

Please see tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (12/18/18 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the Layfield & Barrett matter (calendar no. 1, 9/18/18 at 2:00 p.m.).

Party Information

Debtor(s):

Philip James Layfield

Pro Se

**United States Bankruptcy Court
Central District of California
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CONT... Philip James Layfield

Chapter 7

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, March 5, 2019

Hearing Room 1545

2:00 PM

2:19-10762 Koi Design LLC

Chapter 11

#5.00 Cont'd status conference re: Chapter 11 Case
fr. 2/26/19

Docket 1

***** VACATED *** REASON: To be heard at 1:00 p.m. (3/5/19)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 12, 2019

Hearing Room 1545

10:00 AM

2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating

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variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets),

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then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d)(1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR

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9021-1(b)(1)(B).

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(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves. The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

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Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.,* were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report

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due 3/12/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

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2:19-11809 Schaefer Ambulance Services, Inc

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#2.00 Cont'd Hrg re: Emergency Motion for an Order Authorizing
(1) Maintenance of Prepetition Bank Accounts, and
(2) Continued Use of Existing Forms
fr. 02/28/19

Docket 12

Tentative Ruling:

Tentative Ruling for 3/12/19:

Please see the tentative ruling for the status conference (calendar no. 1, 3/12/19 at 10:00 a.m.)

Tentative Ruling for 2/28/19:

Please see the tentative ruling for the status conference (calendar no. 8, 2/28/19 at 10:00 a.m.)

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Monserat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

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#3.00 Cont'd Hrg re: Emergency Motion for Order Determining Adequate Assurance of Payment for Future Utility Services and Setting Procedures to Resolve Any Disputes fr. 02/28/19

Docket 25

Tentative Ruling:

Tentative Ruling for 3/12/19:

Please see the tentative ruling for the status conference (calendar no. 1, 3/12/19 at 10:00 a.m.)

Tentative Ruling for 2/28/19:

Please see the tentative ruling for the status conference (calendar no. 8, 2/28/19 at 10:00 a.m.)

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

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#4.00 Cont'd Hrg re: Emergency Motion for an Order Authorizing (1) the Use Of Cash Collateral, and (2) Grant of Adequate Protection to Secured Creditors fr. 02/28/19

Docket 13

Tentative Ruling:

Tentative Ruling for 3/12/19:

Please see the tentative ruling for the status conference (calendar no. 1, 3/12/19 at 10:00 a.m.)

Tentative Ruling for 2/28/19:

Grant in part and deny in part on an interim basis, subject to the conditions set forth below, with a final hearing on the same date as the continued status conference (tentatively scheduled for 3/26/19 at 1:00 p.m. per calendar no. 10, 2/28/19 at 10:00 a.m.), and a deadline of 3/1/19 for the movant to file and serve a notice of the final hearing. Appearances required.

Analysis

The tentative ruling is to deny the motion for use of cash collateral to the extent that it seeks payment on account of prepetition debts, listed on the budget (dkt. 13, Ex.1) as "Critical Vendor Pre-Petition Relief." No motion seeking payment of prepetition claims of critical vendors has been filed (and traditionally it has been generally understood that such relief is not available in the Ninth Circuit).

To the extent the budget contemplates adequate protection payments (as distinguished from actual payment on prepetition debt), the tentative ruling is to grant the motion (subject to the conditions set forth below). Debtor is directed to clarify if the proposed payments listed in the budget as "Credit Line," "Equipment Loan," "Real Estate Loan Interest," and "Equipment Loan Interest" are intended to be adequate protection payments.

To the extent that the cash collateral motion seeks relief regarding Cathay Bank's alleged violation of the automatic stay (see dkt. 13 at PDF p.13-14, dkt.

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23), the tentative ruling is to deny any such relief because the alleged stay violations are not properly before this Court. No motion for contempt pursuant to 11 U.S.C. 105 and 362(a) has been filed, nor has Cathay Bank filed a motion for relief from the automatic stay, and the parties have not briefed the issues.

But if the parties are in any doubt about the parameters of the automatic stay they are encouraged to seek relief by filing appropriate motions. Then they can obtain rulings of this Court determining whether it is a violation of the automatic stay (i) to seek discovery of books and records from third parties in the prepetition action in State Court (see 11 U.S.C. 362(a)(1)&(6)), (ii) to apply a temporary freeze to bank accounts (see *Citizens Bank of Maryland v. Stumpf*, 116 S.Ct. 286 (1995)), or (iii) to decline to honor any postpetition requests for payment out of Debtor's bank account to pay third parties' prepetition debts (see 11 U.S.C. 362(a)(6)).

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of

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such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

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(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

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Monserrat Morales

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2:18-12881 Anh Tuan Tran

Chapter 7

Adv#: 2:18-01152 Miller v. Abundo et al

- #1.00** Cont'd Status Conference Re: Complaint (1) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 548(a)(1)(A), 544(b), 550, Cal. Civ. Code §§ 3439.04(a)(1), 3439.07 and 3439.09; (2) To Avoid Transfer and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b), 548(a)(1)(B), 550, Cal. Civ. Code §§ 3439.04(a)(2), 3439.07 and 3439.09; (3) To Preserve Transfers for the Benefit of the Estate Pursuant to 11 U.S.C. § 551; (4) For Imposition of Resulting Trust; (5) For Imposition of Constructive Trust; (6) To Disallow Claim Pursuant to 11 U.S.C. § 502(d); and (7) For Turnover of Property of the Estate Pursuant to 11 U.S.C. § 542(a)
fr. 07/17/18, 10/02/18, 12/18/18

Docket 1

*** VACATED *** REASON: Adversary Dismissed on 01/30/2019 (Dkt. 17)

Tentative Ruling:

Tentative Ruling for 12/18/18:

Continue to 3/12/18 at 11:00 a.m. in anticipation that the parties' proposed settlement (dkt. 29, 30) will be approved, and so as to provide sufficient time for performance thereunder and dismissal of this adversary proceeding.

Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

Appearances required. The court has reviewed the parties' joint status report (adv. dkt. 7) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status

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conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 7/31/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/16/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/30/18

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Anh Tuan Tran

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Expert(s) - deadline for reports: 12/14/18

Expert(s) - discovery cutoff (if different from above): 1/11/19

Dispositive motions to be heard no later than: 1/22/19

Joint Status Report: 9/18/18

Continued status conference: 10/2/18 at 11:00 a.m.

Pretrial conference: TBD

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Anh Tuan Tran

Represented By
Randy Chang

Defendant(s):

Rodolfo Abundo

Represented By
Randy Chang

Susan Abundo

Represented By
Randy Chang

Kirsten Abundo

Represented By
Randy Chang

Plaintiff(s):

Elissa D Miller

Pro Se

Trustee(s):

Elissa Miller (TR)

Represented By
Jeffrey I Golden

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2:17-23651 Letitia Louise Wellington

Chapter 7

#2.00 Cont'd hrg re: Motion for Substantive Consolidation of the Estate of the Debtor and Nondebtor Spouse Amos Q. Wellington fr. 6/12/18, 07/17/18, 10/16/18

Docket 43

***** VACATED *** REASON: This matter is scheduled to be heard on 04/09/19 at 11:00 a.m.**

Tentative Ruling:

Tentative Ruling for 10/16/18 (same as for 7/17/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 7/17/18 and 6/12/18 hearings, this Court continued the matter for the parties to explore various options. There is no tentative ruling, but the parties should be prepared to inform the Court about the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the papers (dkt. 43, 56, 57).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by

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11:00 AM

CONT... Letitia Louise Wellington

Chapter 7

consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

Michael D. Madison Sr.

Represented By
Stella A Havkin

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 12, 2019

Hearing Room 1545

1:00 PM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#1.00 Combined hrg re: Approval of Disclosure Statement and Chapter 11 Plan

Docket 64

*** VACATED *** REASON: This matter is scheduled to be heard on 03/26/19 at 1:00 p.m.

Tentative Ruling:

Tentative Ruling for 12/11/18:

Appearances required.

(1) Current issues.

(a) Plan (dkt. 64, the "Plan") and disclosure statement (dkt. 63, the "D/S")

It appears that counsel for Debtor has manually altered the spreadsheets, which defeats the purpose of having automatic (reliable) calculations in the spreadsheets. In addition, it appears that the Plan periods in Ex.A are "1" month and 13 months later (month "14"), whereas on Ex.C Period A is 3 months, Period B is 1 month, and Period C is 6 months, which does not match. In addition, the Effective Date (e.g., on Ex.A & Ex. C) should be revised to a date that is at least two weeks after the combined hearing on the plan and D/S set forth below.

Subject to correction of these issues, the tentative ruling is to conditionally approve the disclosure statement and authorize service of the voting package, all as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 64,63)*: 12/18/18 deadline (i) to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and (ii) to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference. The proposed order should be modified so that the voting package includes Mr. Starflinger's declaration (dkt. 65).

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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1:00 PM

CONT...

R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 3/12/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required.

(1) Current issues. This Court has reviewed Mr. Starflinger's declaration (dkt. 62) and will address at the Status Conference Debtor's first amended plan (dkt. 61) and first amended disclosure statement (dkt. 60).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 12/4/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/9/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 57) will address at the Status Conference Debtor's proposed Plan (dkt. 55) and disclosure statement (dkt. 54).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 11/27/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 8/7/18:

Continue to 10/9/18 at 1:00 p.m., per the debtor's request (Status Report, dkt. 51). Appearances are not required on 8/7/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

Continue to 8/7/18 at 1:00 p.m. Appearances are not required on 6/26/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

- (1) Current issues. This court has no issues to raise *sua sponte*.
- (2) Deadlines/dates. This case was filed on 5/15/18.
 - (a) Bar date: 8/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: file by 8/21/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

time).

(c) Continued status conference: 6/26/18 at 1:00 p.m., to be concurrent with other hearings in this case. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

**United States Bankruptcy Court
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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18

Docket 5

*** VACATED *** REASON: This matter is scheduled to be heard on
03/26/19 at 1:00 p.m.

Tentative Ruling:

Tentative Ruling for 12/11/18:
Appearances required.

(1) Current issues.

(a) Plan (dkt. 64, the "Plan") and disclosure statement (dkt. 63, the "D/S")

It appears that counsel for Debtor has manually altered the spreadsheets, which defeats the purpose of having automatic (reliable) calculations in the spreadsheets. In addition, it appears that the Plan periods in Ex.A are "1" month and 13 months later (month "14"), whereas on Ex.C Period A is 3 months, Period B is 1 month, and Period C is 6 months, which does not match. In addition, the Effective Date (e.g., on Ex.A & Ex. C) should be revised to a date that is at least two weeks after the combined hearing on the plan and D/S set forth below.

Subject to correction of these issues, the tentative ruling is to conditionally approve the disclosure statement and authorize service of the voting package, all as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 64,63)*: 12/18/18 deadline (i) to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and (ii) to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference. The proposed order should be modified so that the voting package includes Mr.

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1:00 PM

CONT...

R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

Starflinger's declaration (dkt. 65).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 3/12/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required.

(1) Current issues. This Court has reviewed Mr. Starflinger's declaration (dkt. 62) and will address at the Status Conference Debtor's first amended plan (dkt. 61) and first amended disclosure statement (dkt. 60).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 12/4/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit
conference).

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/9/18:
Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 57) will address at the Status Conference Debtor's proposed Plan (dkt. 55) and disclosure statement (dkt. 54).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 11/27/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 8/7/18:

Continue to 10/9/18 at 1:00 p.m., per the debtor's request (Status Report, dkt. 51). Appearances are not required on 8/7/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

Continue to 8/7/18 at 1:00 p.m. Appearances are not required on 6/26/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This court has no issues to raise *sua sponte*.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/21/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S.

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1:00 PM

CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/26/18 at 1:00 p.m., to be concurrent with other hearings in this case. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, March 12, 2019

Hearing Room 1545

2:00 PM

2:13-26483 Saeed Cohen

Chapter 11

#1.00 Cont'd Status Conference re: Post Confirmation
fr. 5/23/17, 8/8/17, 9/12/17, 12/12/17, 1/9/18,
4/10/18, 4/17/18, 07/17/18, 11/20/18, 12/11/18

Docket 0

*** VACATED *** REASON: This matter is scheduled to be heard on
03/26/19 at 2:00 p.m.

Tentative Ruling:

Tentative Ruling for 12/11/18:

This Court has reviewed the debtor's filed status report (dkt. 1517) and has no issues to raise sua sponte. The tentative ruling is to continue this status conference to 3/12/19 at 2:00 p.m., with a *brief* status report due 2/26/19. Appearances are not required on 12/11/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

This Court has reviewed the debtor's filed status report (dkt. 1511) and has no issues to raise sua sponte. The tentative ruling is to continue this status conference to 11/20/18 at 2:00 p.m., with a *brief* status report due 11/6/18. Appearances are not required on 7/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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Tuesday, March 12, 2019

Hearing Room 1545

2:00 PM

CONT... Saeed Cohen

Chapter 11

appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

(a) Grant the motion to clarify issues regarding class 8 claims (dkt. 1489) as amended by the supplement (dkt. 1496), (b) issue an order substantially in the form attached as an exhibit to that supplement (the debtor is directed to lodge that proposed order within 7 days after this hearing), and (c) set a continued post-confirmation status conference for 7/17/18 at 2:00 p.m., with a brief status report due 7/6/18. Appearances are not required on 4/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 14, 2019

Hearing Room 1545

9:00 AM

2:14-27656 Carlo Bondanelli

Chapter 7

Adv#: 2:17-01547 Mastan v. Bondanelli et al

#1.00 Mediation re: Complaint to Set Aside and Recover
Fraudulent Transfers

Docket 1

Party Information

Debtor(s):

Carlo Bondanelli

Represented By
John D Monte
Nathan D Meyer
Michael J Glenn

Defendant(s):

Carlo Bondanelli

Represented By
Michael J Glenn

Carlo Bondanelli, as trustee of St.

Represented By
Michael J Glenn

St. Joseph's Investments, Inc.

Represented By
Michael J Glenn

St. Joseph's Investments, Inc. in its

Represented By
Michael J Glenn

Does 1-10, Inclusive

Pro Se

Movant(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Plaintiff(s):

Peter J Mastan

Represented By

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Thursday, March 14, 2019

Hearing Room 1545

9:00 AM

CONT...

Carlo Bondanelli

Chapter 7

John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Trustee(s):

Peter J Mastan (TR)

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 14, 2019

Hearing Room 1545

9:00 AM

2:14-27656 Carlo Bondanelli

Chapter 7

Adv#: 2:17-01549 Mastan v. Desert Solis, Inc., a California corporation et al

#2.00 Mediation re: Complaint to Set Aside and Recover
Fraudulent Transfers

Docket 1

Party Information

Debtor(s):

Carlo Bondanelli

Represented By
John D Monte
Nathan D Meyer
Michael J Glenn

Defendant(s):

Desert Solis, Inc., a California

Represented By
Michael J Glenn

DOES 1-10, Inclusive

Pro Se

Movant(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Plaintiff(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Trustee(s):

Peter J Mastan (TR)

Represented By
John P Reitman

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, March 14, 2019

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9:00 AM

CONT...

Carlo Bondanelli

Aleksandra Zimonjic
Jack A Reitman

Chapter 7

**United States Bankruptcy Court
Central District of California
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Thursday, March 14, 2019

Hearing Room 1545

9:00 AM

2:14-27656 Carlo Bondanelli

Chapter 7

Adv#: 2:17-01550 Mastan v. Civitas Incorporated., a California corporation et

#3.00 Mediation re: Complaint to Set Aside and Recover
Fraudulent Transfers

Docket 1

Party Information

Debtor(s):

Carlo Bondanelli

Represented By
John D Monte
Nathan D Meyer
Michael J Glenn

Defendant(s):

Civitas Incorporated., a California

Represented By
Michael J Glenn

St. Joseph's Investments, Inc., a

Represented By
Michael J Glenn

DOES 1-10, Inclusive

Pro Se

Movant(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

Plaintiff(s):

Peter J Mastan

Represented By
John P Reitman
Aleksandra Zimonjic
Jack A Reitman

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, March 14, 2019

Hearing Room 1545

9:00 AM

CONT... Carlo Bondanelli

Chapter 7

Trustee(s):

Peter J Mastan (TR)

Represented By

John P Reitman

Aleksandra Zimonjic

Jack A Reitman

**United States Bankruptcy Court
Central District of California
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Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

2:18-20628 Michael Richard Simmons

Chapter 13

#1.00 Hrg re: Objection to Claim Number 3
by Claimant Americredit Financial Services, Inc.,
dba GM Financial

Docket 23

Tentative Ruling:

Continue to 4/18/19 at 8:30 a.m. to address the following issues. Appearances are not required on 3/21/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

- (1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or
- (2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and

**United States Bankruptcy Court
Central District of California
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Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

CONT... Michael Richard Simmons

Chapter 13

until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michael Richard Simmons

Represented By
D Justin Harelik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

2:18-23573 Norma Isidra Renteria

Chapter 13

#2.00 Hrg re: Objection to Claim #2 by Claimant E-Tail Network Inc.
in the Amount of \$ 42349.45

Docket 20

Tentative Ruling:

Grant (sustain the objection to Claim No. 2). Appearances are not required.

(1) Burdens of proof

A proof of claim ("POC") is deemed allowed unless an objection is made, and if such an objection is made then the Court "shall" allow such claim "except to the extent that" it is unenforceable under the agreement itself or applicable law (or other, inapplicable grounds). 11 U.S.C. § 502(a) & (b). In other words, the initial burden is on the objecting party to provide a cognizable ground to disallow the claim. Once the objecting party meets that burden, the burden shifts to the claimant to rebut the objection. The burden can shift back and forth as each party overcomes the other's prior arguments and evidence. See *generally In re Orozco* (Case No. 2:13-bk-15745-NB), dkt. 134, pp.5:9-8:22.

(2) Analysis

Claimant The E-Tail Network, Inc. ("Claimant") filed a proof of claim (Claim No. 2, copied at dkt. 20, Exhibits, pp.1-9) asserting both *in personam* liability and a judgment lien against certain real property. Claimant now "acknowledge[s] that it does not possess a judgment lien encumbering the real property." Dkt. 28, p.2:3-4. The remaining issue is whether Claimant has an allowable unsecured claim.

(a) Notice of renewal of judgment

Debtor contends (dkt. 20, p.5:3-4, pp.10:24-11:4) that neither she nor her co-debtor husband ever received notice of the motion papers for renewal of the judgment. But Debtor concedes that there is a proof of service (the "POS") that shows service on her (dkt. 20, Exhibit 4, at p.34) and she does not cite any authority that this Court can ignore that POS.

Debtor points out (dkt. 20, p.4:17-22) that the POS does not show service on her husband. But Debtor has not established either (i) that she has standing

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Norma Isidra Renteria

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to assert, on behalf of her husband, a lack of service on him, or (ii) that, even if he was not served, that would be a basis to disallow the claim as against her.

Debtor points out that the POS shows that service was not made until 3/14/18 (dkt. 20, Exhibits, p.34). Debtor implies that this substantial delay in serving the papers (long after they were filed on 11/27/17) renders the renewal subject to challenge. Perhaps so, but Debtor cites no authority for that proposition.

In addition, as Claimant point out and Debtor concedes, under CCP 683.170 she had only 30 days following service of notice of renewal to file a motion seeking to vacate the renewal based on "any ground that would be a defense to an action on the judgment," and she did not do so. Dkt. 20, p.5, n.2 (quoting CCP 683.170); dkt. 28, p.2:11-13. Again, Debtor contends (dkt. 20, p.5:3-4) that she did not ever receive notice of the renewal papers, but she cites no authority that this Court can ignore the POS.

For all of these reasons, the tentative ruling is that Debtor's argument about lack of proper service is insufficient to disallow Claimant's claim.

(b) Timeliness of renewal of judgment

The judgment at issue was entered on 11/27/07 and the renewal papers were not filed on 11/26/17 but rather one day later on 11/27/17. Debtor asserts that this was one day beyond the ten year period for renewal.

Debtor cites authority that the 30 day limitation on challenging a renewal (CCP 683.170) does not apply because the failure to renew within ten years is jurisdictional and renders the renewal not just voidable but void. Dkt. 20, pp.8:14- 9:28 & nn.4-5. Claimant does not contest that point. Rather, the contested issue is how to count the ten year period.

A judgment expires "upon the expiration of 10 years after the date of entry of [the judgment]" (CCP 683.120, emphasis added), and any application for renewal must be filed "before the expiration" of that 10 year period (CCP 680.130). Claimant asserts that the ten year period commences the day after entry of judgment (not immediately after, on the same day), so for the judgment entered on 11/27/2007 the 10 year period allegedly started to run the next day, on 11/28/2007, and ended at midnight on 11/27/2017.

But Debtor cites authority that the 10-year period "commences on the date of entry" of the judgment. *Fidelity Creditor Svc., Inc. v. Brown*, 89 Cal.App.4th 195, 201 (2001) (citations and internal quotation marks omitted). For example, a judgment entered on 12/17/07 was held to have lapsed by 12/17/17. *Ringel v.*

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City of Riverside, 2018 U.S. Dist. Lexis 189926 (dkt. 20, Ex.9, at pp.44-45 (C.D. Cal.) (Phillips, J.).

Claimant responds that Debtor "is simply wrong. That is not how deadlines are calculated pursuant to the [California] Code of Civil Procedure ['CCP']." But Claimant cites no authority.

The tentative ruling is that the renewal of judgment was untimely, and therefore void. Accordingly, the tentative ruling is to sustain the objection to Claim No. 2.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Norma Isidra Renteria

Represented By
Glenn Ward Calsada

Movant(s):

Norma Isidra Renteria

Represented By
Glenn Ward Calsada

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-24110 Elfego Martinez Dominguez and Floriberta Martinez Cruz

Chapter 13

#3.00 Hrg re: Objection to Proof of Claim Number 2

Docket 20

*** VACATED *** REASON: Continued per stipulation (dkt. 28) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Elfego Martinez Dominguez

Represented By
Suzette Douglas

Joint Debtor(s):

Floriberta Martinez Cruz

Represented By
Suzette Douglas

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-24397 Eddie P Lawrence, SR

Chapter 13

#4.00 Hrg re: Objection to Proof of Claim Number 1 by
Claimant Wells Fargo Bank, N.A.

Docket 18

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Procedures

Debtor's claim objection (dkt. 18-20) requests multiple forms of relief, including an award of damages of not less than \$100,000 against creditor Wells Fargo Bank, N.A. ("Wells Fargo"). It appears that an adversary proceeding may be required. See Rules 3007(b) & 7001 (Fed. R. Bankr. P.).

Debtor has not complied with various other procedures, but the tentative ruling is to excuse such non-compliance, with a caution that future non-compliance with applicable rules might result in adverse rulings. (Debtor's objection papers do not reflect proper service on Wells Fargo; Debtor did not include a copy of Wells Fargo's proof of claim and referred to claim no.1 when the correct identifier is claim no.2; etc.)

Debtor may wish to consider retaining a capable bankruptcy attorney.

(2) Creditor's request for more time

The opposition filed by Wells Fargo (dkt. 33) requests that this Court continue the hearing for 30-45 days so that it can complete its full analysis and then file supplemental papers. The tentative ruling is to grant that request by continuing this matter to 5/16/19 at 8:30 a.m., with a deadline of 5/2/19 for Wells Fargo's supplemental papers.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

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required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Eddie P Lawrence SR	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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2:16-16962 Catalina Corona

Chapter 13

#5.00 Hrg re: Trustee's Motion to Modify Plan or Suspend
Plan Payments

Docket 42

Tentative Ruling:

Grant, in view of Debtor's withdrawal (dkt. 52) of her prior response (dkt. 43) to this motion (dkt. 42) of the Chapter 13 Trustee to modify Debtor's plan.
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Catalina Corona

Represented By
Andrew P Altholz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-22918 Rosita Bello

Chapter 13

#6.00 Hrg re: Motion for Dismissal of Chapter 13 Bankruptcy Proceeding

Docket 30

Tentative Ruling:

Dismiss this case with a 180 day bar, for willful failure to appear in proper prosecution of this case (11 U.S.C. 109(g)(1)), for the reasons stated in the motion (dkt. 30) and in the reply (dkt. 38) to Debtor's opposition (dkt. 35).
Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rosita Bello

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-10466 Nooshig Ipekian

Chapter 13

#7.00 Hrg re: U.S. Trustee's Motion Seeking an Order Requiring Debtor's Counsel of Record, Yeznik O. Kazandjian, to Disclose Compensation Pursuant to 11 U.S.C. Section 329

Docket 13

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Nooshig Ipekian

Represented By
Yeznik O Kazandjian

Movant(s):

United States Trustee (LA)

Represented By
Kelly L Morrison

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:11-52374 Gregory L Lopez and Irene Lopez

Chapter 13

#8.00 Hrg re: Debtor's Motion for Reconsideration of the Court's
Order on Motion to Avoid Junior Lien on Principal Residence

Docket 95

Tentative Ruling:

Grant, based on the motion papers and the tentative ruling in the order (dkt. 96) setting this motion for hearing, and the absence of any opposition. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Gregory L Lopez

Represented By
Lior Katz

Joint Debtor(s):

Irene Lopez

Represented By
Lior Katz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-14940 Georgetta Lee Ciufu

Chapter 13

#9.00 Hrg re: Debtor's Motion for an Order to Show Cause Why Synchrony and its agents, CIR Law Offices International, LLP, Moma Funding, LLC, Quantum3 Group, LLC Should Not Be Found in Contempt for Willfull Violation of the Automatic Stay and Co-Debtor Stay

Docket 29

Tentative Ruling:

Grant in part and deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The tentative ruling is to issue an Order to Show Cause ("OSC") against Synchrony Bankr ("Synchrony") and CIR Law Offices International ("CIR"), but not against Quantum3 Group LLC ("Quantum") and MOMA Funding LLC ("MOMA"). The tentative ruling is to set a hearing on the OSC for 4/18/19 at 8:30 a.m., with the usual deadlines for Debtor to serve the OSC and file and serve supplemental declaration(s) with evidence of claimed damages (21 days prior to the hearing), any opposition (14 days prior), and any reply (7 days prior) (all subject to adding three days for any service via U.S. mail).

(1) Service

The motion papers were not properly served, as explained below. But the tentative ruling is that it does not matter because the OSC can be issued *ex parte*, with all rights reserved to respond to the OSC. That appears to be adequate in the circumstances.

(a) This Court has discretion to issue the OSC on an *ex parte* basis

True, the local rules require proper service of a motion requesting an OSC (LBR 9020-1(a)&(b)), but the same rules begin with the clause, "[u]nless otherwise ordered by the court" (*id.*). In addition, LBR 1001-1(d) provides that this Court "may waive application of any Local Bankruptcy Rule."

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It appears appropriate to issue the OSC on this basis, because this tentative ruling requires that the OSC itself be served on Synchrony and CIR in accordance with the rules, and they will have ample opportunity to respond. In other words they will not be prejudiced.

(b) Service on Synchrony

It appears that Synchrony is an FDIC-insured institution, so it must be served via certified mail (FRBP 7004(h)). It must also be served to the attention of a bank officer (*id.*) at an address that appears to be reasonably calculated to reach the officer -- *e.g.*, the address listed for banks on the FDIC website is sufficient (<http://www2.fdic.gov/IDASP/main.asp>), whereas a P.O. Box used for payments is insufficient. Note: Judge Bason does not require that a specific individual be named -- "Attn: Officer" is sufficient.

(c) Service on CIR

CIR must be served to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment of law (FRBP 7004(b)(3)), at an address that appears to be reasonably calculated to reach the officer (*e.g.*, corporate headquarters). Note: Judge Bason does not require that a specific individual be named -- "Attn: Officer or Managing/General Agent" is sufficient.

(d) Service on Quantum and MOMA

Like CIR, these entities also were not served to the attention of an officer, or managing/general agent. But they have responded (dkt. 32), so they have received notice of the motion and therefore have not been prejudiced by the lack of service in strict compliance with the rules. In addition, the tentative ruling is not to issue the OSC against them (as stated below), which is an alternative reason why they are not prejudiced.

(2) Joint Opposition from Quantum and MOMA (dkt. 32)

Based on the opposition (dkt. 32), the tentative ruling is that Debtor has not established sufficient grounds for issuance of an OSC against Quantum and MOMA. In addition, if it turns out that different facts that implicate Quantum or MOMA are alleged by Synchrony and CIR, or are uncovered by discovery, then this Court can always issue an OSC against them at a later time.

(3) OSC Should be Issued Against Synchrony and CIR

The tentative ruling is that Debtor has made a *prima facie* showing based on clear and convincing evidence that (a) the debts at issue are community debts

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(Calif. Fam. Code 910), (b) the debt at issue is a "consumer debt," and (c) Synchrony and CIR violated the automatic stay and/or the co-debtor stay in their postpetition attempts to collect that debt. 11 U.S.C. 362(a) and 1301. Debtor has also made a prima facie showing of the elements of a claim under 11 U.S.C. 105 and/or 362(k), except that Debtor must provide some quantification of whatever damages are sought.

(4) Conclusion

The tentative ruling is to issue an OSC against Synchrony and CIR and require those creditors to show cause why they should not be sanctioned for violating the automatic stay and/or the co-debtor stay. The tentative ruling is also to require Debtor to serve the OSC in accordance with the rules noted above, and to file and serve supplemental declaration(s) quantifying damages, as set forth above.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Georgetta Lee Ciufo

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-22241 Yasser Emad Sadek

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- #10.00 Order to Show Cause Directing Debtor and His Attorney, Louis J. Esbin, Esq. to Show Cause (1) Why Case Should Not Be Dismissed for Non-Disclosures, (2) Why Debtor Should Not Be Subject to a Bar Against Being a Debtor in Any Future Bankruptcy Case, or (3) Why Other Remedies or Sanctions Should Not Be Imposed

Docket 49

Tentative Ruling:

Appearances required. The tentative ruling is (a) to require further declarations and briefing by a deadline of 4/4/19 and (b) to set an evidentiary hearing on this Order to Show Cause (dkt. 49, the "OSC") for 4/11/19 at 1:00 p.m., all as set forth below.

After this 3/21/19 hearing, this Court will prepare and issue an appropriate order, which may adopt or modify this tentative ruling.

(1) Background

Debtor's bankruptcy schedules and Statement Of Financial Affairs ("SOFA") did not disclose (a) rental payments or (b) Tesla vehicle lease payments that Debtor's employer made as part of Debtor's compensation. Debtor's employer is a dental business that he sold to his brother.

These and other nondisclosures came to light in connection with a motion (dkt. 20) by a creditor for dismissal of this bankruptcy case. That creditor is the trustee in another bankruptcy case. See dkt. 46, p.2:15-27.

At a hearing on 12/20/18 Debtor argued, through his counsel Louis J. Esbin, Esq., that there was no obligation to disclose the rent and Tesla payments because, allegedly, such payments would not be treated as income for tax or accounting purposes. Alternatively, he argued that such compensation had offsetting expenses, so there was no harm.

This Court found these arguments frivolous: as this Court explained at the hearing, and later in greater detail in a written order, the bankruptcy forms instruct debtors to disclose "all" regular income, and "all" means all. See Order

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(dkt. 46, pp.4:1-7:11). It is irrelevant if non-bankruptcy law has different requirements; and it is irrelevant if there are offsetting expenses. The same is true for disclosing expenses, assets, liabilities, and all other disclosures: the forms require broad, candid disclosure. See *id.* and Rule 9009(c) (fed. R. Bankr. P.).

To illustrate, suppose a hypothetical debtor has a luxury rental property with a fair market value of \$50,000,000; but also suppose that this property has been depreciated, for tax purposes, to \$-0-. Suppose further that the debtor occupies the penthouse, which would have a fair market rent of \$20,000 per month, but that this rent is paid by the debtor's employer. Under the approach described by Mr. Esbin, none of this would be disclosed. That is ridiculous.

This Court was shocked that Mr. Esbin would advance such arguments. At a hearing on 12/20/18 this Court stated that it was inclined to issue an order directing Debtor and Mr. Esbin to show cause why they should not be sanctioned (an "OSC").

But Mr. Esbin requested that this Court not issue any OSC, and he represented that Debtor would file amended disclosures and that he (Mr. Esbin) understood and would abide by this Court's interpretation of the disclosure requirements, both in this case and in future cases. This Court was persuaded not to issue an OSC at that time; but only on certain conditions.

This Court expressed concern that there might be misunderstandings over the exact nature of Debtor's disclosure obligations - *i.e.*, that Mr. Esbin's promises might be unclear and unenforceable. So this Court established some safeguards to assure that, on the one hand, Debtor and Mr. Esbin would have an opportunity to cite any authority they might have for their own interpretation of the disclosure requirements and, on the other hand, this Court would have the opportunity to rule on those issues and set forth the disclosure requirements in greater detail (the "Safeguards").

As explained at the hearing on 12/20/18, the mechanism for implementing the Safeguards would be that this Court would dismiss this case with a 180-day bar against being a debtor in future bankruptcy cases, but with a deadline of 1/24/19 for Debtor to file and serve his brief on whether the 180-day bar should be modified, and with a continued hearing date. See Dismissal Order (dkt. 37). In other words, proceedings on the 180-day bar issue would serve as a mechanism for making sure that there were no misunderstandings about Debtor's and Mr. Esbin's disclosure obligations.

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But that is not what happened. Debtor did not file any amended disclosures, nor did he file the brief that was due on 1/24/19. Instead he entered into a stipulation with the creditor who had moved for dismissal (dkt. 44). That stipulation provided that Debtor would "refrain" from filing another bankruptcy case for a period of time, and the stipulation requested that this Court take off calendar the further hearing set by the dismissal order.

This Court was concerned that the stipulation did not address (i) Mr. Esbin's commitment that Debtor would amend his disclosures, (ii) Mr. Esbin's promises of compliance with the disclosure obligations in this case and future cases, or (iii) the Safeguards that this Court had established to assure that there was no misunderstanding about Debtor's disclosure obligations. So this Court's order approving the stipulation (the "Order On Stipulation," dkt. 46) provided that this Court was only prepared to approve the stipulation on the condition that Debtor and Mr. Esbin abide by their prior commitments:

The "good cause" for approval of the Stipulation includes this Court's findings of fact and conclusions of law, as stated on the record at the hearing on the Dismissal Motion and more fully stated herein. Specifically, such good cause includes the following.

(a) Full disclosure is required, and was promised in this case

One aspect of "good cause" to approve the Stipulation is the commitment made by Mr. Esbin at the above-referenced hearing that he and Debtor would abide by this Court's interpretation of the official bankruptcy schedules and Statement Of Financial Affairs ("SOFA"). ...

* * *

[detailed description of disclosure obligations omitted]

* * *

(b) Deadline for full disclosure in this case

The docket does not reflect that Debtor has amended his bankruptcy schedules, notwithstanding the above-referenced commitment by Mr. Esbin that he and Debtor would abide by this Court's interpretation of Debtor's disclosure requirements. This Court presumes that Mr. Esbin and Debtor were awaiting written guidance from this Court (which, as noted above, was to occur after briefing, which Debtor has opted not to provide).

Regardless of the reason for Debtor's lack of amended bankruptcy

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schedules, and regardless of Debtor's settlement with the Trustee, Debtor still has an obligation to provide full disclosure of all assets, liabilities, income, and expenses by filing amended bankruptcy schedules and an amended SOFA. Debtor is hereby ORDERED to do so no later than February 15, 2019.

(c) Commitment to full disclosure in future cases

Additional "good cause" for approval of the Stipulation includes Mr. Esbin's acknowledgment on the record at the above-referenced hearing that he understood this Court's oral explanation of the foregoing principles and would abide by those principles in all bankruptcy cases before the undersigned Bankruptcy Judge. If, on further reflection and review of this order, Mr. Esbin has any doubts about that understanding, he is directed immediately to lodge a proposed order setting a status conference at which this Court will determine whether to vacate the approval of the Stipulation, set a briefing schedule, and/or take other acts.

(d) Caveat

Debtor is cautioned that if he does not abide by the foregoing disclosure principles then he may be subject to sanctions or other adverse consequences such as a longer bar to being a debtor in any future bankruptcy case. Mr. Esbin is cautioned that if he and any debtor whom he represents in future do not abide by the foregoing principles then they may be subject to sanctions or other adverse consequences. [Order on Stipulation (dkt. 46), pp.4:2-8:17 (emphasis added).]

The 2/15/19 deadline came and went with no amended schedules, and no lodging of any proposed order by Mr. Esbin setting any status conference to address any disagreement or misunderstanding regarding Debtor's disclosure obligations. Accordingly, this Court issued its OSC (dkt. 49) directing Debtor and Mr. Esbin to address

[i] why Debtor should not be barred from being a debtor in any future bankruptcy case, unless and until otherwise ordered by this Court, and [ii] why any other remedies or sanctions should not be imposed for the lack of disclosures in this case, both prior to and after this Court's express order to make disclosures in the Order Approving Stipulation. [Dkt. 49, p.2:14-17 (the OSC also directed them to address why the

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case should not be dismissed, but that was an error because the case already had been dismissed).]

Debtor has now filed some amended bankruptcy schedules and an amended SOFA. Dkt. 52. He and Mr. Esbin have also filed their declarations and a response to the OSC. Dkt. 53.

(2) Jurisdiction

In his response to the OSC, Debtor (through Mr. Esbin) suggests that this Court no longer has jurisdiction to determine whether Debtor should be barred from being a debtor in bankruptcy for a period of longer than 180 days, or to consider whether to impose sanctions against Debtor or Mr. Esbin. Debtor's argument is that the creditor who filed the motion to dismiss (dkt. 20) later stipulated to resolve that motion. This, he claims, "eliminated the controversy to be adjudicated" and thus terminated this Court's jurisdiction (dkt. 53, p.2 para 1.).

Debtor and Mr. Espin cite no authority for their argument that this Court lacks jurisdiction. But this Court has an independent duty to examine its own jurisdiction. Having done so, this Court is satisfied that it has jurisdiction.

(a) This Court expressly retained jurisdiction, and alternatively has automatic jurisdiction over issues such as sanctions and a bar

Jurisdiction and venue are governed by 28 U.S.C. §§ 1334 and 1408. This Court has the authority to enter a final judgment or order regarding a bar, sanctions, or other matters under 28 U.S.C. § 157(b)(2)(A) & (O). See generally *Stern v. Marshall*, 131 S. Ct. 2594 (2011); *In re AWTR Liquidation, Inc.*, 547 B.R. 831 (Bankr. C.D. Cal. 2016) (discussing *Stern*); *In re Deitz*, 469 B.R. 11 (9th Cir. BAP 2012) (same); *In re David*, 487 B.R. 843, 867 (Bankr. S.D.Tex. 2013) (sanctions proceedings are constitutionally "core").

The creditor who raised the nondisclosures by Debtor and Mr. Esbin may have sought only limited relief but, once the nondisclosures were apparent, that implicated the integrity of the bankruptcy system, which is very much an issue for this Court. That issue does not disappear just because Debtor entered into a stipulation resolving that one creditor's disputes.

As explained at the 12/20/18 hearing, the *quid pro quo* for not proceeding at that time with an OSC against Debtor and Mr. Esbin was to retain jurisdiction to address whether or not this Court, on its own motion, would modify the bar against being a debtor in bankruptcy, and to use that as a mechanism to assure that Debtor filed amended disclosures and to implement the Safeguards - *i.e.*, to

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clarify the duties of Debtor and Mr. Esbin so that there would not be any misunderstandings in this case or in future. This Court's intent to retain jurisdiction was not just expressed orally at the hearing on 12/20/18; it is also reflected in written orders.

This Court's dismissal order expressly retains jurisdiction on a very broad basis:

this Court retains jurisdiction to the extent provided by Local Bankruptcy Rule ["LBR"] 1017-2(f), and on the limited issue of whether the 180-Day Bar should remain ("180 Day Bar Issue"). [Dkt. 37, p.2:12-15 (emphasis added; redlining marks omitted)]

This language leaves no doubt that this Court retained jurisdiction both on the 180 Day Bar Issue and on all other issues addressed in LBR 1017-2(f), which expressly include sanctions and imposing a bar. In any event, even if this Court had not specifically cited LBR 1017-2(f), that local rule automatically retains post-dismissal jurisdiction to the maximum extent permitted by law.

Alternatively, even if LBR 1017-2(f) were inapplicable for some reason, the retention of jurisdiction over the 180 Day Bar Issue inherently encompasses all conduct (or misconduct) in connection with that issue. That is an additional reason why this Court has jurisdiction to proceed with the OSC (dkt. 49).

Alternatively, even if neither the LBR nor this Bankruptcy Court had said anything at all about retaining jurisdiction, "[i]ssues of ... sanctions survive dismissal." *In re Menk*, 241 B.R. 896, at 906 and *passim* (9th Cir. BAP 1999) (citations omitted) (extensive discussion of why bankruptcy courts have such jurisdiction). Likewise, any bar on being a debtor in bankruptcy is an issue of the type that survives dismissal of the case. *See generally id.*

Debtor and Mr. Esbin are also mistaken if they thought they could moot the Safeguards and deprive this Court of jurisdiction through their stipulation (dkt. 44). First, the stipulation does not say anything about mooting the Safeguards or depriving this Court of jurisdiction. Second, the Order on Stipulation reaffirmed both this Court's intent to retain jurisdiction and this Court's concerns that Debtor and Mr. Esbin abide by their commitments and comply with all disclosure obligations, after an opportunity to cite any authority for any different interpretation of those obligations.

All of the foregoing leaves no doubt that jurisdiction was retained. This Court's approval of the stipulation did not, as Mr. Esbin argues, "nullif[y]" the purpose of this Court's retention of jurisdiction. Dkt. 53, p.12:22-25 (Esbin

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Decl.).

(b) For the avoidance of doubt, this Court has retained jurisdiction to the maximum extent permitted by law, including over any ongoing or new misconduct

The foregoing discussion of specific issues should not be interpreted as limiting in any way this Court's broad retention of jurisdiction under LBR 1017-2(f). There was good cause for such a broad retention of jurisdiction in the Dismissal Order, and there is still good cause: because of Debtor's nondisclosures this Court does not know what additional issues might be undisclosed, and those unknown issues might have to be addressed in future.

In addition, there is now a history, post-dismissal, of a lack of compliance by Debtor and Mr. Esbin with this Court's orders. Such non-compliance itself has become a separate issue as to which this Court can and does exercise jurisdiction.

(c) Conclusion as to jurisdiction

This Court has consistently retained jurisdiction to the maximum extent permitted by law. That includes addressing not only whether to modify the 180-day bar (to increase it or to decrease it) but also whether to impose sanctions on Debtor or Mr. Esbin.

(3) Due process

The tentative ruling is to reject Mr. Esbin's one-line assertion that his reputation is "under attack without any evidence or due process." Dkt. 53, p.13:4. The evidence of intentional nondisclosures is set forth above; and this Court is not engaged in any attack, but rather a defense of the integrity of the bankruptcy system.

At the hearing on 12/20/18 this Court provided Mr. Esbin and Debtor with a "second bite at the apple" and an opportunity to avoid any OSC, if they would adequately supplement their prior (inadequate) disclosures and provide adequate assurance of future compliance with their disclosure obligations. But instead of doing so, they sought approval of a stipulation that caused this Court to be concerned about a possible evasion of Mr. Esbin's promises and this Court's Safeguards.

Despite these concerns, this Court did not disapprove the stipulation and instead gave Debtor and Mr. Esbin a third bite at the apple by setting a deadline of 2/15/19 to file supplemental documents and, if they disagreed with this Court's interpretation of the disclosure requirements, to address that issue. See Order

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on Stipulation (dkt. 46). But that deadline came and went with no supplemental papers, so this Court issued its OSC (dkt. 49).

That OSC, this hearing, and any supplemental proceedings are giving Debtor and Mr. Esbin yet more opportunities to address this Court's concerns and show why this Court should end the bar and why they should not be sanctioned. Mr. Esbin and Debtor have failed to establish how any of the foregoing is a denial of due process.

(4) Legal standards for dismissal with a bar, and for sanctions

(a) Dismissal with a bar

Dismissal with a bar of 180 days is expressly authorized under 11 U.S.C. § 109(g)(1) for "willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of this case." (Emphasis added.) In addition, there is authority that Bankruptcy Courts can impose a bar of any other appropriate duration pursuant to 11 U.S.C. § 105(a), 349(a), 1307(a) and, alternatively, pursuant to this court's inherent powers to manage its own docket. See *In re Glover*, 537 Fed.Appx. 741 (9th Cir. 2013) (affirming dismissal with a five-year bar to refiling under 11 U.S.C. § 105(a)); *In re Leavitt*, 171 F.3d 1219 (9th Cir. 1999) (affirming dismissal with prejudice based upon a finding of bad faith).

(b) Sanctions

The 9th Circuit has explained that "ordinarily a court proposing to impose sanctions notifies the person charged both of the particular alleged misconduct and of the particular disciplinary authority under which the court is planning to proceed." *In re DeVille*, 361 F.3d 539, 548 (9th Cir. 2004). This Court is proceeding under the following authority.

(i) Rule 9011

Rule 9011 (Fed. R. Bankr. P.) provides, in relevant part:

(b) Representations to the Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, –

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein

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are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on lack of information or belief.

(c) Sanctions. If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for that violation.

(1) How initiated.

* * *

(B) On Court's Initiative. On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto. [Rule 9011(b)&(c) (emphasis added)]

When the court initiates sanctions under Rule 9011, the conduct must be "akin to contempt" which requires "more than ignorance or negligence on the part of [the attorney]." *In re Nakhuda*, 544 B.R. 886, 902 (9th Cir. BAP 2016).

(ii) Section 105(a)

Section 105(a) of the Bankruptcy Code (11 U.S.C. 105(a) provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

[Section 105(a) (emphasis added).]

To impose sanctions under § 105(a), there must be "clear and convincing evidence that the contemnors violated a specific and definite order of the court." *In re Dyer*, 322 F.3d 1178, 1190 (9th Cir. 2003) (citation omitted). A provision of a statute such as the automatic stay, or a national or local rule, or a form can all serve as a specific and definite order of the court. See *id.* and Rules 1017 & 9009 (Fed. R. Bankr. P.).

(iii) Court's inherent authority

The Court of Appeals for the Ninth Circuit has held that Bankruptcy

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Courts possess the inherent authority to sanction parties for a broad range of improper litigation conduct. *Id.* at 1196. Before imposing sanctions under its inherent sanctioning authority, a court "must make an explicit finding of bad faith or willful misconduct," which "consists of something more egregious than mere negligence or recklessness." *Id.* (citations and internal quotation marks omitted).

This standard has been stated more broadly as requiring either bad faith, conduct tantamount to bad faith, or recklessness with an "additional factor such as frivolousness, harassment, or an improper purpose." *Fink v. Gomez*, 239 F.3d 989, 994 (9th Cir. 2001). Due process is accorded as long as the sanctionee is "provided with sufficient, advance notice of exactly which conduct was alleged to be sanctionable, and [was] furthermore aware that [he or she] stood accused of having acted in bad faith." *In re DeVille*, 361 F.3d at 549 (citations and internal quotation marks omitted).

(iv) American Bar Association ("ABA") standards

When considering sanctions against an attorney, the Bankruptcy Appellate Panel for the Ninth Circuit (the "BAP") has held that Bankruptcy Courts should assure that (A) the disciplinary proceeding is fair, (B) the evidence supports the findings, and (C) the penalty imposed is reasonable. *In re Nguyen*, 447 B.R. 268 (9th Cir. BAP 2011). Preferably, the court should consider the ABA standards (*id.*): "the bankruptcy court should consider: (1) whether the duty violated was to a client, the public, the legal system or the profession; (2) whether the lawyer acted intentionally, knowingly or negligently; (3) whether the lawyer's misconduct caused a serious or potentially serious injury; and (4) whether aggravating factors or mitigating circumstances exist." *In re Brooks-Hamilton*, 400 B.R. 238, 252-53 (9th Cir. BAP 2009).

(5) Mr. Esbin's and Debtor's conduct prior to issuance of the Order on Stipulation

(a) Mr. Esbin's conduct

Mr. Esbin argued at the hearing on 12/20/19 that Debtor not only was permitted to omit his employer's payment of his rent and Tesla lease from his bankruptcy schedules, but was required to do so in order to be accurate for tax or accounting purposes. Thus there is no question that Mr. Esbin acted willfully, but that is not sufficient for sanctions under the foregoing authorities.

This Court notes the following issues. This list is not intended to be exhaustive, and Mr. Esbin and Debtor are encouraged to make their own assessment of the issues.

The issues include:

- * Did Mr. Esbin form his beliefs regarding the accuracy of Debtor's bankruptcy disclosures after "an inquiry reasonable under the circumstances" (Rule 9001(b), Fed. R. Bankr. P.)?
- * Did Mr. Esbin act with an improper purpose, such as to evade the disclosure requirements under the Bankruptcy Code, Rules, and

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Official Forms (see Rules 9011(b)(1), 1017 and 9009 (Fed. R. Bankr. P.))?

- * Were his legal contentions "warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law" (Rule 9011(b)(2))?
- * Did the factual contentions in the bankruptcy schedules, and omissions in them, have evidentiary support or were they "warranted on the evidence or, if specifically so identified, [were they] reasonably based on lack of information or belief" (Rule 9011(b)(3)&(4))?
- * Is there is "clear and convincing evidence" that Mr. Esbin "violated a specific and definite order of the court," statute, rule, or instruction on an official form (*Dyer*, 322 F.3d 1178, 1190)?
- * Has Mr. Esbin shown "bad faith or willful misconduct" (*id.*) or conduct tantamount to bad faith, or recklessness with an "additional factor such as frivolousness, harassment, or an improper purpose" (*Fink v. Gomez*, 239 F.3d 989, 994 (9th Cir. 2001))?

As for the ABA standards:

- * The duty of disclosure concerns not only the creditors in this case but the public's reliance on the integrity of the legal system and the legal profession.
- * Incomplete disclosures place Mr. Esbin's client (Debtor) at risk of denial of discharge in any bankruptcy case, a bar on being a debtor in future bankruptcy cases, sanctions, and other adverse consequences.
- * It is not entirely clear whether the nondisclosures in this case caused serious or potentially serious injury because the whole point of nondisclosures is that creditors and this Court are left in the dark about Debtor's true financial history and circumstances. But this Court has concerns about potentially serious injury to creditors because, despite Debtor's historical annual income of over \$600,000, (i) he and Mr. Esbin have alleged that his current income is a fraction of that amount, (ii) he and Mr. Esbin did not disclose the rent and Tesla payments by his employer, and (iii) despite several opportunities to provide adequate disclosures, he and Mr. Esbin have not done so and, to the contrary, appear to be continuing not to treat their legal obligations with appropriate seriousness (see below).
- * Aggravating factors include the apparent attempts to evade the promises and Safeguards that were the basis for not issuing an OSC at the hearing on 12/20/18.
- * Mitigating factors include that the dollar amounts of undisclosed income that have been discovered (so far) are relatively small, and

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they appear to be offset by expenses.

* As for Mr. Esbin's intent, that may require an evidentiary hearing.

(b) Debtor's conduct

The same issues described above appear to apply to Debtor, except for the ABA standards applicable to sanctioning attorneys. In addition, to the extent if any that Debtor relies on a defense of advice of counsel, he will need to provide evidentiary and legal support for that defense. As with Mr. Esbin, this Court's identification of issues is not intended to be exhaustive, and Debtor is encouraged to make his own assessment of the issues.

(6) Mr. Esbin's and Debtor's treatment of the Order on Stipulation

(a) Mr. Esbin's failure to read the order

Mr. Esbin declares (dkt. 53) that he did not read this Court's Order on Stipulation (dkt. 46) until after this Court issued its OSC (dkt. 49). This Court understands Mr. Esbin's reasons as follows.

First, Mr. Esbin declares that he was busy and away from his office (dkt. 53, p.13, para.4-5). Second, he did not click on the link to this Court's order in the notice of electronic filing that he received (the "NEF") because he assumed that the order had no changes, based on the NEF's text that the stipulation was "approved," rather than stating that the stipulation was "granted in part and denied in part" (*id.*, pp.13-14, para.6). Mr. Esbin argues that this constitutes excusable neglect. See Rules 9023, 9024 (Fed. R. Bankr. P.).

This Court recognizes that mistakes can be made; but in the circumstances of this case Mr. Esbin's excuses actually exacerbate this Court's concerns. They appear to be part of a pattern of not taking the obligations in these bankruptcy proceedings seriously enough.

Recall that, at the hearing on 12/20/18, this Court was shocked at Debtor's nondisclosures and Mr. Esbin's arguments - they appeared to treat Debtor's disclosure obligations as a game of hiding the ball. This Court expressly refrained from issuing an OSC at that time in reliance on (i) Mr. Esbin's promise that Debtor would file amended disclosures, (ii) Mr. Esbin's promise that Debtor and Mr. Esbin would abide by this Court's interpretation of the disclosure obligations, and (iii) the Safeguards to protect against any misunderstanding of those obligations.

Yet now Mr. Esbin is asserting that, even though none of those three things had happened, and even though he claims that approval of the stipulation would moot all of those issues and deprive this Court of jurisdiction, he was so confident that this Court would issue his proposed order without any changes

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that he did not look at the order. That reinforces the impression that Mr. Esbin has not taken his obligations in this case seriously enough.

(b) Debtor's treatment of the Order on Stipulation

There is no evidence about whether Debtor read the Order on Stipulation. But he was served with a paper copy (dkt. 48), and it has a stamp on the first page and extensive redlining showing that this Court did a lot more than just approve the stipulation.

The order includes several pages explaining Debtor's disclosure obligations in detail (dkt. 46, pp.4:1-7:11) and setting a deadline of 2/15/19 (in boldface) to file amended disclosures. Yet that as that deadline approached and passed, with no communication from Mr. Esbin about Debtor's disclosure obligations, Debtor did not contact Mr. Esbin about the missed deadline (this is known because Mr. Esbin declares that he first learned of the provisions of the Order on Stipulation when this Court issued its OSC).

So it appears that either Debtor failed to read the order or else he read the order and ignored it. Debtor already knew or should have known how concerned this Court was about his nondisclosures, based on the terms of the dismissal order - or, if he also failed to read that order, based on the simple fact that his bankruptcy case had been dismissed. Therefore, as with Mr. Esbin, Debtor's reaction to receiving the Order on Stipulation reinforces the impression that he has not taken his obligations in this case seriously enough.

(7) Amended Bankruptcy Schedules A/B, C, I, & J, and SOFA. (dkt. 52) and Declarations of Debtor and Mr. Esbin (dkt. 53, pp.3-15)

As noted above, Mr. Esbin promised at the hearing on 12/20/18 that Debtor would amend his disclosures. When he failed to do so, the Order on Stipulation set the 2/15/19 deadline for Debtor to file supplemental disclosures. In addition, as quoted above, that order directed Mr. Esbin that if he had any doubts about Debtor's disclosure obligations he was to lodge a proposed order setting a status conference. See Order on Stipulation (dkt. 46).

The latest papers filed by Debtor and Mr. Esbin still do not adequately address these issues.

(a) Debtor's papers are inadequate

First, Debtor's declaration is not actually signed. Debtor's name is typewritten with "/s/" in front, but that is insufficient. See LBR 9011-1.

Second, although the documents strongly imply that Debtor is complying

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with this Court's interpretation of the applicable disclosure obligations; they do not quite say so. For example, Debtor's declaration and bankruptcy schedules now disclose that his rent and his Tesla car are paid for by his employer (the business he sold to his brother), but those are only the specific items that this Court has already identified. Are there other matters that Debtor is failing to disclose? Will Debtor assert in future that (like Mr. Esbin) he did not actually read this Court's Order on Stipulation (dkt. 46)? Or will Debtor assert that he read the order but (silently) disagreed with this Court's interpretation of his disclosure obligations?

Another example is Debtor's response to this Court's question: "What are the details regarding Debtor's precipitous decline in income reflected on his Statement of Financial Affairs?" Dkt. 46, p.2:23-25. Debtor's declaration on states only that the main source of his income used to be transactions through his real estate investment company, SEW Enterprises, LLC ("SEW") (dkt. 53, p.7, para.17), but that "[i]n 2017, I had no real estate dealings though SEW" *Id.*, para. 19. What does that mean?

Has Debtor had "real estate dealings" through other entities (and left the profits within those entities rather than taking any distributions, so as not to show any personal income)? Or has Debtor otherwise structured his finances in such a way as to depress his apparent or actual income? Has Debtor had a drop in his ability to earn income? Or has Debtor decided to work less? In other word, what actually accounts for Debtor's decrease in income from over \$600,000 in 2016 to a fraction of that amount? The point is not only that the answers might be troubling but that, even if they would not be troubling, there is no disclosure regarding such issues.

How can creditors, or this Court, rely on anything that Debtor says when he is still providing only partial disclosures, even after this Court has given him multiple bites at the apple and detailed guidance (dkt. 46, pp.4:1-7:11)? How are Debtor's disclosures reliable when he has failed to address whether or not he is still applying a different interpretation of his disclosure obligations from what this Court has explained?

(b) Mr. Esbin's declaration is inadequate

There is no assurance from Mr. Esbin that he has carefully read, understands, and will abide by the disclosure obligations that this Court has explained in detail (dkt. 46, pp.4:1-7:11), both in this case and in future cases. Nor has he taken any of the multiple opportunities to assert that Debtor's disclosure obligations are something different, if he has any basis to do so.

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(c) Additional papers and evidentiary hearing

The tentative ruling is to set the deadline recited at the start of this tentative ruling for Debtor and Mr. Esbin to file and serve on the Chapter 13 Trustee and the United States Trustee their declarations that they have read this Court's Order on Stipulation, including its interpretation of the disclosure obligations (dkt. 46, pp.2:10-7:12), and either (a) that they are abiding by that interpretation or, alternatively, (b) that they are, in good faith, asserting an argument for a different interpretation. The tentative ruling is to set the same deadline for them to file any brief regarding a different interpretation of the disclosure obligations and regarding this Court's jurisdiction, including citations to appropriate authorities.

In addition, the tentative ruling is to extend the bar against being a debtor in bankruptcy until otherwise ordered by this Court.

In addition, the tentative ruling is to expand the OSC to encompass the acts and omissions since the date when the OSC was issued.

In addition, the tentative ruling is to set an evidentiary hearing at the time listed at the start of this tentative ruling.

Once the foregoing papers have been filed and Mr. Esbin and Debtor have testified under oath, this Court can determine whether to discharge the OSC, modify the bar, impose sanctions on Debtor or Mr. Esbin, refer Mr. Esbin to a disciplinary panel of this Court, and/or take any other action.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Yasser Emad Sadek

Represented By
Louis J Esbin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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#11.00 Cont'd hrg re: Motion to Avoid Lien with JNC, Inc., a California Corporation c/o Evan A. Clark, Esq., its Successors and/or Assigns
fr. 12/20/18, 1/24/19

Docket 22

Tentative Ruling:

Tentative Ruling for 3/21/19:

At the hearing on 1/24/19 this Court granted a continuance so that appraisers' declarations could be filed and then the parties and this Court could address whether to decide the matter on the papers, or through an evidentiary hearing, or by appointing a third party appraiser. The parties are directed to address that issue. Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/24/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address how they propose to resolve their disputes - e.g., (i) with an evidentiary hearing, as indicated by JNC's supplemental opposition (dkt. 43); (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706, or (iv) through some other method.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/20/18:

Continue to 2/21/19 at 8:30 a.m. to address the following issues. Appearances are not required on 12/18/18.

Appraisal; date of valuation. The junior lienholder has provided an "exterior only" appraisal (dkt. 26), but needs additional time to obtain an appraisal based on an interior inspection and whatever analysis that appraiser and/or the junior lienholder deem appropriate regarding Debtor's estimate of repair costs. Debtor is directed to provide reasonable access for those purposes. The junior lienholder is directed to file and serve the appraisal at least 14 days before the continued hearing. Note: Judge Bason's tentative ruling is to require valuations *at or near the petition date*. See *In re Gutierrez*, 503 B.R. 458 (Bankr. C.D. Cal. 2013).

At the continued hearing the parties should address how they propose to resolve their disputes - *e.g.*, (i) with an evidentiary hearing; (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through mediation, or (iv) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marcelino Torres

Represented By
Kevin T Simon

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Movant(s):

Marcelino Torres

Represented By
Kevin T Simon
Kevin T Simon
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

2:18-14320 Ronald G Sanchez

Chapter 13

#12.00 Cont'd hrg re: Objection to Claim 3-1 of California Uninsured Employers Benefit Trust Fund; Request that Claim be Disallowed fr. 11/29/18, 2/21/19

Docket 30

***** VACATED *** REASON: Continued to 5/16/19 per stipulation (dkt. 42) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Ronald G Sanchez

Represented By
David S Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

2:18-11817 Tierus Eugene James

Chapter 13

#13.00 Cont'd hrg re: Objection to Claim Number 3 by
Claimant Deutsche Bank National Trust
Company, et al. c/o Nationstar Mortgage,
LLC. dba Mr. Cooper
fr. 1/24/19

Docket 31

*** VACATED *** REASON: Voluntary dismissal of motion filed on
1/25/19 [dkt. 38]

Tentative Ruling:

Party Information

Debtor(s):

Tierus Eugene James

Represented By
Kevin T Simon

Movant(s):

Tierus Eugene James

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

2:16-24755 Gloria Elisa Galvan

Chapter 13

#14.00 Cont'd hrg re: Motion to Disallow Claim Number 13
Filed by TSDC, LLC
fr. 8/2/18, 10/02/18, 11/6/18, 1/8/19

Docket 113

*** VACATED *** REASON: Cont. to 5/16/19 at 8:30 a.m. per stip. (dkt. 161) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Michael E Clark
Nancy B Clark
Nancy B Clark
Barry E Borowitz
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

2:15-10438 Tiffany Ringo

Chapter 13

#15.00 Cont'd hrg re: Motion under Local Bankruptcy
Rule 3015-1 (n) and (w) to modify plan or
suspend plan payments
fr. 1/24/19

Docket 49

Tentative Ruling:

Tentative Ruling for 3/21/19hrg:

Appearances required. There is no tentative ruling, but this Court notes that the docket does not reflect any progress since the last hearing, including whether Debtor has provided the chapter 13 trustee with the 2016 and 2017 tax returns (see the trustee's objection, dkt. 50).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/24/19hrg:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether the chapter 13 trustee is satisfied with Debtor's explanation for requiring a modification (see the debtor's supplemental declarations, dkt. 56, 57) and (c) whether Debtor has provided the chapter 13 trustee with the 2016 and 2017 tax returns (see the trustee's objection, dkt. 50).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

CONT... Tiffany Ringo

Chapter 13

required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tiffany Ringo

Represented By
William J Smyth
Stephen S Smyth
Andrew Edward Smyth

Movant(s):

Tiffany Ringo

Represented By
William J Smyth
Stephen S Smyth
Andrew Edward Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

2:17-23107 Didra L Brown

Chapter 13

#16.00 Cont'd Hrg re: Objection to Claim Number 8 by Claimant Pinnacle Credit Services, LLC its Successors and Assigns as Assignee of Midland Credit Management, Inc. fr. 11/29/18

Docket 80

Tentative Ruling:

Tentative Ruling for 3/21/19:

Grant (sustain the objection to claim 8-1). This Court expressly finds that Counsel has provided a cost/benefit analysis (dkt. 98) that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections (see dkt. 106), so any limitation on fees in the prior tentative ruling on this matter is hereby vacated. Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/18:

Continue to 12/20/18 at 8:30 a.m. to address the following issues. Appearances are not required on 11/29/18.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

CONT...

Didra L Brown

Chapter 13

fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

- (1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or
- (2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Didra L Brown

Represented By
Sanaz S Bereliani

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

8:30 AM

CONT... Didra L Brown

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 21, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, March 25, 2019

Hearing Room 1545

10:00 AM

2:18-22047 Shaquandway Bates

Chapter 13

#1.00 Evidentiary hrg. re: Directing Justin D. Graham, Esq
to Show Cause Why He Should Not Be Sanctioned
fr. 12/20/18

Docket 26

***** VACATED *** REASON: To be rescheduled**

Party Information

Debtor(s):

Shaquandway Bates

Represented By
Justin D Graham

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:14-14611 Joyce Elaine Durden

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

REVERSE MORTGAGE FUNDING, LLC
vs
DEBTOR

Docket 71

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Joyce Elaine Durden

Chapter 13

Party Information

Debtor(s):

Joyce Elaine Durden

Represented By
Thomas B Ure

Movant(s):

Reverse Mortgage Funding, LLC

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:15-21070 Marcela Antonio MATEO

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON TRUST, NATIONAL ASSOC
vs
DEBTOR

Docket 62

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Marcela Antonio MATEO

Chapter 13

Party Information

Debtor(s):

Marcela Antonio MATEO

Represented By
R Grace Rodriguez

Movant(s):

Wilmington Trust, National

Represented By
Cassandra J Richey
Darlene C Vigil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:15-23257 Phillip II Oh and April Ingrid Oh

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 65

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 67).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Phillip II Oh

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

April Ingrid Oh

Represented By
Ramiro Flores Munoz

Movant(s):

Deutsche Bank National Trust

Represented By
Erin M McCartney
Asya Landa

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Phillip II Oh and April Ingrid Oh

Chapter 13

Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:15-26836 Callie Ball

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

VALLEY LOAN PORTFOLIO, LLC
vs
DEBTOR

Docket 48

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 50).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Callie Ball

Represented By
Axel H Richter

Movant(s):

Valley Loan Portfolio, LLC

Represented By
Glen Dresser

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:16-15062 Gilbert Richard Tafoya

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 45

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Gilbert Richard Tafoya

Represented By
Sam Benevento

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:16-16826 Wonda Kong

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 58

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Wonda Kong

Represented By
Clifford Bordeaux

Movant(s):

U.S. Bank National Association, as

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:17-15078 Tammy Marie Porter

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 33

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Tammy Marie Porter

Represented By
Sanaz S Bereliani

Movant(s):

Nationstar Mortgage LLC

Represented By
Melissa A Vermillion
Darlene C Vigil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:17-20919 Manuel Cruz and Rosa Cruz

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK, NA
vs
DEBTOR

Docket 43

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 45).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Manuel Cruz

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Rosa Cruz

Represented By
Jaime A Cuevas Jr.

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
Caren J Castle

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Manuel Cruz and Rosa Cruz

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:17-23741 Marshall Stewart, Jr.

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 28

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Marshall Stewart, Jr.

Chapter 13

Party Information

Debtor(s):

Marshall Stewart Jr.

Represented By
Daniel King

Movant(s):

The Bank Of New York Mellon,

Represented By
Diana Torres-Brito

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:17-25631 Uche Pearl Rodriguez

Chapter 13

#10.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 84

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Uche Pearl Rodriguez

Chapter 13

Party Information

Debtor(s):

Uche Pearl Rodriguez

Represented By
Anthony P Cara

Movant(s):

THE BANK OF NEW YORK

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-10338 Jimmy Mitchell

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 32

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Jimmy Mitchell

Chapter 13

Party Information

Debtor(s):

Jimmy Mitchell

Represented By
Raymond Perez

Movant(s):

Wilmington Savings Fund Society,

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-10476 Gene Hernandez

Chapter 13

#12.00 Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA, N.A.
vs
DEBTOR

Docket 44

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 46).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Gene Hernandez

Represented By
Nicholas M Wajda

Movant(s):

Bank of America, N.A.

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-12888 Marsha Liliene Jue-Barrett and Douglas Barrett

Chapter 13

#13.00 Hrg re: Motion for relief from stay [RP]

CALIBER HOME LOANS, INC.
vs
DEBTOR

Docket 34

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 38).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marsha Liliene Jue-Barrett

Represented By
Andrew Moher

Joint Debtor(s):

Douglas Barrett

Represented By
Andrew Moher

Movant(s):

Caliber Home Loans, Inc.

Represented By
Cassandra J Richey
Merdaud Jafarnia

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Marsha Liliene Jue-Barrett and Douglas Barrett

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-17614 Maria C Ricalday

Chapter 13

#14.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST, NA
vs
DEBTOR

Docket 37

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Maria C Ricalday

Chapter 13

Party Information

Debtor(s):

Maria C Ricalday

Represented By
Leonard Pena
Francis Laryea

Movant(s):

U.S. Bank Trust, N.A., as Trustee for

Represented By
Merdaud Jafarnia
Francis Laryea
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-18231 Hilda S. Barrera

Chapter 13

#15.00 **[CASE DISMISSED ON 02/25/2019]**

Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 23

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Hilda S. Barrera

Chapter 13

the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Hilda S. Barrera

Represented By
David Samuel Shevitz

Movant(s):

Deutsche Bank National Trust

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-19326 Kathleen Elizabeth Watkins

Chapter 13

#16.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kathleen Elizabeth Watkins

Represented By
Gregory M Shanfeld

Movant(s):

Wilmington Savings Fund Society,

Represented By
Sean C Ferry
Francis Laryea
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Kathleen Elizabeth Watkins

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-19900 Lee Davis

Chapter 13

#17.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 27

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Lee Davis

Chapter 13

Party Information

Debtor(s):

Lee Davis

Represented By
Stephen S Smyth

Movant(s):

Deutsche Bank National Trust

Represented By
Darren J Devlin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-20086 Jose Mauro Reyes and Maria Teresa Reyes

Chapter 13

#18.00 Hrg re: Motion for relief from stay [RP]

FIRST CITY CREDIT UNION
vs
DEBTOR

Docket 27

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 32).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Mauro Reyes

Represented By
Barry E Borowitz

Joint Debtor(s):

Maria Teresa Reyes

Represented By
Barry E Borowitz

Movant(s):

First City Credit Union

Represented By
Karel G Rocha

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Jose Mauro Reyes and Maria Teresa Reyes

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-22536 Aurelio Lazalde Jr and Patricia I Lazalde

Chapter 13

#19.00 Hrg re: Motion for relief from stay [RP]

ROUNDPOINT MORTGAGE SERVICING CORP
vs
DEBTOR

Docket 21

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Aurelio Lazalde Jr

Represented By
Sundee M Teeple

Joint Debtor(s):

Patricia I Lazalde

Represented By
Sundee M Teeple

Movant(s):

RoundPoint Mortgage Servicing

Represented By
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-22918 Rosita Bello

Chapter 13

#20.00 Hrg re: Motion for relief from stay [RP]

SARLA GUPTA
vs
DEBTOR

Docket 28

*** VACATED *** REASON: Cont'd to May 7, 2019 at 10:00 a.m. per
Stipulation (dkt. 36) and order thereon

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rosita Bello

Represented By
Matthew D. Resnik

Movant(s):

Sarla Gupta

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-23527 Francisco Meza

Chapter 13

#21.00 Hrg re: Motion for relief from stay [RP]

CALIBER HOME LOANS, INC.
vs
DEBTOR

Docket 22

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francisco Meza

Represented By
Steven A Wolvek

Movant(s):

Caliber Home Loans, Inc.

Represented By
Jennifer C Wong
Erin Elam
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:19-10005 Luis Alberto Bravo

Chapter 13

#22.00 Hrg re: Motion for relief from stay [RP]

NS171, LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT...

Luis Alberto Bravo

Chapter 13

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leaffy*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Luis Alberto Bravo

Chapter 13

Debtor(s):

Luis Alberto Bravo

Represented By
Brad Weil

Movant(s):

NS171, LLC

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-18131 Alexander Dela Cruz Del Rosario and Marie Chita-Linda

Chapter 13

#23.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 55

Tentative Ruling:

Continue to 4/9/19 at 10:00 a.m. based on the representation in Debtor's limited opposition (dkt. 57) that Movant has expressed a willingness to continue this hearing, if necessary, to finalize an adequate protection order. Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alexander Dela Cruz Del Rosario

Represented By
Sevan Gorginian

Joint Debtor(s):

Marie Chita-Linda Vergara Del

Represented By
Sevan Gorginian

Movant(s):

JPMORGAN CHASE BANK,

Represented By
Kelsey X Luu
Merdaud Jafarnia

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT...

Alexander Dela Cruz Del Rosario and Marie Chita-Linda

Chapter 13

Kenessa C Hartin

Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:17-22109 Harry Balian and Agavni Gina Hogtanian

Chapter 13

#24.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK N.A.
vs
DEBTOR

Docket 41

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Harry Balian

Represented By
Matthew D. Resnik

Joint Debtor(s):

Agavni Gina Hogtanian

Represented By
Matthew D. Resnik

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:17-22109 Harry Balian and Agavni Gina Hogtanian

Chapter 13

#25.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 43

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Harry Balian and Agavni Gina Hogtanian

Chapter 13

Party Information

Debtor(s):

Harry Balian

Represented By
Matthew D. Resnik

Joint Debtor(s):

Agavni Gina Hogtanian

Represented By
Matthew D. Resnik

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-12507 Laura Nishimura

Chapter 13

#26.00 Hrg re: Motion for relief from stay [PP]

AMERICAN HONDA FINANCE CORP
vs
DEBTOR

Docket 30

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Laura Nishimura

Represented By
Sam Benevento

Movant(s):

American Honda Finance

Represented By
Alex Pettigrew
Vincent V Frounjan

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-20277 Steve Tony Stargen

Chapter 13

#27.00 Hrg re: Motion for relief from stay [PP]

AMERICAN HONDA FINANCE CORP
vs
DEBTOR

Docket 32

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Steve Tony Stargen

Represented By
Kevin T Simon

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#28.00 Hrg re: Motion for relief from stay [PP]

HONDA LEASE TRUST
vs
DEBTOR

Docket 46

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Jackies Cookie Connection LLC

Chapter 11

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-23206 Almeta L Powell

Chapter 13

#29.00 Hrg re: Motion for relief from stay [PP]

DAIMLER TRUST
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Almeta L Powell

Chapter 13

Party Information

Debtor(s):

Almeta L Powell

Represented By
David Samuel Shevitz

Movant(s):

Daimler Trust

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-23206 Almeta L Powell

Chapter 13

#30.00 Hrg re: Motion for relief from stay [NA]

AMERIHOM MORTGAGE CO., LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

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10:00 AM

CONT... **Almeta L Powell**

Chapter 13

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

This Bankruptcy Court emphasizes that it does not seek in any way to impinge on the authority of the Nonbankruptcy Courts presiding over the nonbankruptcy action. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage this bankruptcy case. Those obligations including taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and preserving the bankruptcy estate by placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether

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CONT...

Almeta L Powell

Chapter 13

the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly: this action involves largely third parties; the interest of judicial economy provides cause for relief from stay; and it does not appear that the relief requested in the motion will prejudice unsecured creditors.

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Almeta L Powell

Represented By
David Samuel Shevitz

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Almeta L Powell

Chapter 13

Movant(s):

AmeriHome Mortgage Company,

Represented By
Vanessa H Widener
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:18-24161 Young Jin Bae

Chapter 13

#31.00 Hrg re: Motion for relief from stay [UD]

NEWBRIDGE INVESTMENT GROUP, LLC
vs
DEBTOR

Docket 20

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

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10:00 AM

CONT... Young Jin Bae

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Evidence

This Court notes that the declaration attached to the motion is incomplete and/or contains changes to the mandatory form (which are hereby treated as a request to amend the form per LBR 9009-1). This Court makes no determination whether such omissions/changes would withstand an evidentiary objection. Nevertheless, this Court has considered the key documents because (a) there are no evidentiary objections and/or (b) those documents appear to be admissible on other grounds. In future the movant's failure to complete the form properly may result in denial of the motion sua sponte.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Young Jin Bae

Pro Se

Movant(s):

Newbridge Investment Group, LLC

Represented By
Barry L O'Connor

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:19-11143 Tulia Suarez

Chapter 13

#32.00 Hrg re: Motion for relief from stay [UD]

ANZA MANAGEMENT COMPANY
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Tulia Suarez

Chapter 13

Party Information

Debtor(s):

Tulia Suarez

Pro Se

Movant(s):

Anza Management Company

Represented By
Agop G Arakelian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:19-11193 Edgar R Ayon

Chapter 7

#33.00 Hrg re: Motion for relief from stay [UD]

DELFINA ECHEVERRIA
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

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10:00 AM

CONT...

Edgar R Ayon

Chapter 7

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edgar R Ayon

Pro Se

Movant(s):

Delfina Echeverria

Represented By
Marc Cohen

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:19-11456 Bruce Varona

Chapter 13

#34.00 **[CASE DISMISSED ON 3/4/19]**

Hrg re: Motion for relief from stay [UD]

KC 2011 HOLLYWOOD & VINE, LP
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Effective date of relief

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Central District of California
Los Angeles
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Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT...

Bruce Varona

Chapter 13

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Bruce Varona

Pro Se

Movant(s):

KC 2011 Hollywood & Vine, LP

Represented By
Agop G Arakelian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:19-11731 Alexis Maxwell

Chapter 13

#35.00 Hrg re: Motion for relief from stay [UD]

DONALD BARTON
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
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Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Alexis Maxwell

Chapter 13

Party Information

Debtor(s):

Alexis Maxwell

Pro Se

Movant(s):

Donald Barton

Represented By
Dana J Seyler

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:19-11775 Yin Kai Fang

Chapter 13

#36.00 Hrg re: Motion for relief from stay [UD]

AJW WANG, LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

CONT... Yin Kai Fang

Chapter 13

Party Information

Debtor(s):

Yin Kai Fang

Pro Se

Movant(s):

AJW WANG, LLC

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:19-11977 William Donald Hinton, Sr.

Chapter 13

#37.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... William Donald Hinton, Sr. Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

William Donald Hinton Sr.

Represented By
Joshua L Sternberg

Movant(s):

William Donald Hinton Sr.

Represented By
Joshua L Sternberg

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

10:00 AM

2:19-12254 Hiram De Los Rios

Chapter 13

#38.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 9

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Hiram De Los Rios

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Hiram De Los Rios

Represented By
Ryan A. Stubbe

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-18061 Antonio Gonzales

Chapter 13

#39.00 Hrg re: Order to show cause as to why LoanMe, Inc. should not be held in contempt for violation of the automatic stay and order then to pay compensatory and punitive damages

Docket 33

Tentative Ruling:

Continue to 4/30/19 at 10:00 a.m. See dkt. 35, & dkt. 39, p.4:1-3.
Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Antonio Gonzales

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Antonio Gonzales

Represented By
Stephen S Smyth
William J Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-11281 Muriel Ann Carr

Chapter 13

#40.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/11/18, 1/8/19

CHAMPION MORTGAGE COMPANY
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the assertion by Debtor's attorney that Debtor is unable to comply with this Court's Order on Motion for Relief From Stay (dkt. 43) because her checks in payment of the tax-related debt have been returned to her with a notation that she has now overpaid that debt, and any other matters relevant to this motion. See dkt. 47.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Movant's supplemental papers (dkt. 37) assert debts for (1) reimbursement for paying real estate taxes of \$9,851.79 and (2) reimbursement for force placed insurance of \$3,912 (2 x \$1,956). The tentative ruling is (1) to require Debtor to pay the tax-related debt via a motion to modify her confirmed

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CONT...

Muriel Ann Carr

Chapter 13

chapter 13 plan to amortize that debt over the remaining term of the plan, and (2) to pay the insurance-related debt via a standard adequate protection order ("APO").

(1) Real estate taxes

Debtor argues (dkt. 41) that her chapter 13 plan was intended to include when it listed movant (or its predecessor in interest) with a debt of \$33,000 (dkt. 15, confirmed by dkt. 22). But it appears that Debtor listed the wrong party with respect to taxes.

According to Movant, it did not pay those taxes until many months postpetition, on 8/28/28 (see dkt. 37, para. 20), so as of the petition date the debt was owed to the tax authorities, not Movant. Therefore Debtor should have listed the tax authorities in her chapter 13 plan.

Because Debtor did not do so, it appears that those tax debts went unpaid until Movant paid them. Meanwhile, as provided in the confirmation order (dkt. 22), Movant's proof of claim (no. 2-1) controls the monthly distributions by the Chapter 13 Trustee, and that proof of claim apparently did not include the taxes (it is for \$20,085.53, which Debtor concedes is substantially less than the \$33,000 estimated in her plan).

Based on the foregoing, it appears that the best way to restore the parties to the position they would have been if Debtor had correctly included the tax authorities in her plan is to require Debtor to file a motion to modify her plan to amortize the tax-related debt, with interest payable to Movant at the contract rate, over the remaining term of the chapter 13 plan. The tentative ruling is that Debtor must file such a motion in time to be self-calendared for hearing on the chapter 13 calendar on 2/21/19 at 8:30 a.m.

(2) Insurance

The force placed insurance appears to be for postpetition periods (and paid by Movant postpetition). Accordingly, it is a postpetition default, and a standard six month APO appears to be the appropriate remedy (with the usual cure period of 14 days after any default under the APO, and a maximum of three opportunities for any such cure). The tentative ruling is to direct Movant to prepare and lodge that APO within seven days after this hearing.

If appearances are not required at the start of this tentative ruling but you

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CONT... **Muriel Ann Carr**

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

At the hearing on 11/27/18 this Court was persuaded to continue this matter as Debtor appeared to contest the tentative ruling and inform the Court that the property is insured. Counsel for Movant informed the Court that a declaration re insurance coverage for past period was required.

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they have resolved their issues re insurance coverage.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB,

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CONT... Muriel Ann Carr
docket no. 311).

Chapter 13

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Muriel Ann Carr

Represented By
Julius Johnson

Movant(s):

Champion Mortgage Company

Represented By
Sean C Ferry
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:15-11521 Alma Jean Anderson

Chapter 13

#41.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/6/18, 11/27/18, 01/08/19; 02/26/19

PROF-2013-S3 LEGAL TITLE TRUST II
VS
DEBTOR

Docket 66

Tentative Ruling:

Tentative Ruling for 3/26/19 (same as for 2/26/19, 1/8/19 and 11/27/18):
Appearances required. At the request of the parties, this Court continued this matter for a possible adequate protection order (dkt. 69, dkt. 71). There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alma Jean Anderson

Represented By
William J Smyth
Stephen S Smyth

Movant(s):

PROF-2013-S3 Legal Title Trust II,

Represented By
Robert P Zahradka
John D Schlotter

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CONT... Alma Jean Anderson

Chapter 13

Dane W Exnowski
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:15-27558 Kelle Denise Warren

Chapter 13

#42.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19; 02/26/19

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 47

Tentative Ruling:

Tentative Ruling for 3/26/19 (same as for 2/26/19):

Appearances required. At the hearing on 1/8/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

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CONT... **Kelle Denise Warren** **Chapter 13**
present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kelle Denise Warren

Represented By
Ali R Nader

Movant(s):

U.S. Bank National Association

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:17-24251 Rosie Marie Parris

Chapter 13

#43.00 Cont'd Hrg re: Motion for relief from stay [RP]
fr. 02/26/19

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 42

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Rosie Marie Parris

Represented By
Stephen L Burton

Movant(s):

THE BANK OF NEW YORK

Represented By
Kelsey X Luu
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:18-16720 Shelly Knowles

Chapter 13

#44.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 03/05/19

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 27

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Shelly Knowles

Represented By
Scott Kosner

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-17854 Charles William Evans, Jr.

Chapter 13

#45.00 Cont'd Hrg re: Motion for relief from stay [RP]
fr. 02/26/19

AJX MORTGAGE TRUST II
VS
DEBTOR

Docket 26

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Charles William Evans Jr.

Represented By
Matthew D. Resnik

Movant(s):

AJX Mortgage Trust II, a Delaware

Represented By
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-18736 Raju Maity

Chapter 13

#46.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/11/18

NATIONSTAR MORTGAGE, LLC
VS
DEBTOR

Docket 36

***** VACATED *** REASON: Per stipulation (dkt 56) and order theron**

Tentative Ruling:

Party Information

Debtor(s):

Raju Maity

Represented By
Sanaz S Bereliani

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-21621 Perla Eva Sanchez

Chapter 13

#47.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/18/18, 01/15/19; 02/26/2019

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 16

Tentative Ruling:

Tentative Ruling for 3/26/19 (same as for 2/26/19, 1/15/19 and 12/18/18):
Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order (see this Court's interim order, dkt. 22, and the debtor's late-filed supplemental evidence of projected contributions from her parents and feasibility, dkt. 26).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required. The parties should be prepared to address whether they will agree to the terms of an adequate protection order, including provisions that will make any future bankruptcy case ineffective to stay any acts against the subject property ("*in rem*" relief). See Debtor's response (dkt. 20).

Proposed order: If this Court is persuaded to grant such relief, then Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this

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CONT... Perla Eva Sanchez

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court's final ruling. See LBR 9021-1(b)(1)(B).

More specifically, the tentative ruling is that (1) on the present record some form of relief from the automatic stay is required, including *in rem* relief, because Debtor appears to have been involved in a "scheme" to "hinder" or "delay" creditors within the meaning of 11 U.S.C. 362(d)(4), due to the filing of this case on 10/2/18, within a relatively short time after the dismissal on 6/5/18 of the bankruptcy case filed by Francisca Sanchez (2:18-bk-15538-WB); but (2) "relief" from the automatic stay does not necessarily mean "termination" of the stay, and could take the form of an adequate protection order ("APO") that (a) requires monthly payments and (b) provides *in rem* relief as follows:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed. Any additional request for relief applicable to future bankruptcy cases is denied (*e.g.*, any request to grant relief against third parties *without* any notice is denied) due to lack of sufficient factual or legal grounds presented in support of such relief.

In other words, if Debtor has the financial ability to cure the arrears and otherwise prosecute this bankruptcy case, then Debtor can do so under an adequate protection order; but Debtor must establish that she has the financial ability to do so. In addition, no future bankruptcy case will affect the property (subject to the limitations in 11 U.S.C. 362(d)(4)), so Debtor and any other person who asserts an interest in the property or who is a signatory to the loan documents cannot continue to file repeated bankruptcy cases simply to delay any foreclosure.

The grounds for such relief are that this Court has the power to grant relief in the form of modifying or conditioning the automatic stay, not just terminating it (11 U.S.C. 362(d)), and the foregoing relief appears to be appropriate in the present circumstances. See *generally In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (even debtor who has excuses for hindering and delaying creditors can be subject to *in rem* relief); *In re Bousheri* (Case

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No. 2:15-bk-11345-NB), dkt. 79 (analogous order, in valuation context, addressing effect of unauthorized transfer of interest in property).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Perla Eva Sanchez

Represented By
Lionel E Giron

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Kelsey X Luu
Deidra Bowers

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:17-20136 Joyce Miller

Chapter 13

#48.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/26/19

US BANK TRUST NATIONAL ASSOCIATION
VS
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required. At the February 26, 2019 hearing, the Court was persuaded to continue this hearing for an adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order .

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic

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CONT... Joyce Miller

Chapter 13

stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joyce Miller

Represented By
Scott Kosner

Movant(s):

US Bank Trust National Association,

Represented By
Michelle R Ghidotti
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:16-14777 Danney Tarence Lewis and Katrina S. Lewis

Chapter 13

#49.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/26/19

MIDFIRST BANK
vs
DEBTOR

Docket 45

Tentative Ruling:

Tentative Ruling for 3/26/19 (same as for 2/26/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 47).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Danney Tarence Lewis

Represented By
Jeffrey N Wishman

Joint Debtor(s):

Katrina S. Lewis

Represented By
Jeffrey N Wishman

Movant(s):

MidFirst Bank

Represented By

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CONT... Danney Tarence Lewis and Katrina S. Lewis

Chapter 13

Kelsey X Luu
Arnold L Graff
Cassandra J Richey
Darlene C Vigil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#50.00 Hrg re: Motion for Order Authorizing Sale Of Personal Property

Docket 95

***** VACATED *** REASON: This matter is scheduled to be at different time. See # 2 at 1:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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Hearing Room 1545

11:00 AM

2:17-16476 Joshua Daniel Hart

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Jason M Rund, Chapter 7 Trustee]

Docket 100

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joshua Daniel Hart

Represented By
Michael Jay Berger

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, March 26, 2019

Hearing Room 1545

11:00 AM

2:17-19925 Willie John Riley

Chapter 7

- #2.00 Hrg re: Order Granting Chapter 7 Trustee's Motion for Order:
(1) Authorizing Sale of 3604 Cobbert Drive, San Jose, CA 91548,
Free and Clear of Liens, Claims, and Interests; (2) Approving Proposed
Overbid Procedures; (3) Determining that Buyer is a Good Faith Purchaser;
(4) Authorizing Payment of Costs of Sale; and (5) Waiving the Fourteen Day
Stay Prescribed by Rule 6004(h) of the Federal Rules of Bankruptcy Procedure

Docket 137

Tentative Ruling:

The tentative ruling to grant the Trustee's request (in the form of a notice, dkt. 140), joined in by the IRS (dkt. 144), and issue an amended or supplemental order providing that Mr. McDonnell's abstract of judgment not be paid out of the distribution of proceeds from the previously-approved sale of the subject property (dkt. 137, 146). Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Subject to any changes to this tentative ruling, the Chapter 7 Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Analysis

On the one hand, there are some considerations favoring Mr. McDonnell's position. On the other hand, the tentative ruling is that the considerations on the other side are of greater weight.

(1) Considerations favoring Mr. McDonnell's position

(a) Lack of good faith

Mr. McDonnell's opposition papers (dkt. 145, 147, 148) make a strong argument that Debtor lacked "good faith" when he sought to be protected by the automatic stay (11 U.S.C. 362(c)).

(b) Debtor's motion under section 362(c) probably sought relief under the wrong statutory provision

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Willie John Riley

Chapter 7

Mr. McDonnell has presented evidence that Debtor had not one but two dismissed bankruptcy cases that were pending in the year before this case was filed (dkt. 148) - at least, assuming the "Willie Riley" in Case No. 16-52786-DM (Bankr. N.D. Cal.) is the same person as Debtor in this case. If so, then Debtor's motion (dkt. 11) sought relief under the wrong statutory provision, namely paragraph "(3)" instead of paragraph "(4)" of 11 U.S.C. 362(c).

(c) Trustee's change of position

Mr. McDonnell is correct that the Trustee has changed his position. Previously the Trustee favored making a distribution to Mr. McDonnell based on his abstract of judgment, and now the Trustee opposes any such distribution because the recording of the abstract was void as a violation of the automatic stay. See *In re Gruntz*, 202 F.3d 1074, 1082 (9th Cir. 2000) ("actions taken in violation of the automatic stay are void").

(d) Procedure

The Trustee's notice is not in the form of a motion to reconsider this Court's prior order (dkt. 137) under Rule 9023 or 9024 (Fed. R. Bankr. P.). That order contemplated distributions to Mr. McDonnell, so arguably a motion for reconsideration was required.

(2) Considerations disfavoring Mr. McDonnell's position

Mr. McDonnell is essentially seeking reconsideration of this Court's order (dkt. 21) imposing or continuing the automatic stay. Thereby he seeks to obtain a security interest that would provide him with a far greater recovery than most creditors.

As much as this Court is empathetic to the harm that Mr. McDonnell apparently endured, he is just one of many creditors who have been harmed, and who have been promised more than they will receive. Moreover, it appears that although McDonnell did not know the contents of the 362(c) order when it was issued, he knew that the 362(c) issues had been presented, and he could have sought reconsideration of that order before the Trustee invested the time and effort to sell the property, so his delay has prejudiced the Trustee and the estate. As to Mr. McDonnell's specific arguments:

(a) Lack of good faith

First, it is not a foregone conclusion that this Court would have found a lack of good faith if Mr. McDonnell's objections had been heard at the time

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Willie John Riley

Chapter 7

when this Court held a hearing on Debtor's motion under 11 U.S.C. 362(c). Even a liar and a cheat can decide that the game is up and can file a bankruptcy petition in "good faith" within the meaning of that statute. In circumstances similar to those alleged by Mr. McDonnell this Court has found in the past that debtors have filed their petitions in good faith (they may have done so because the alternatives appear to be more detrimental to them; but that does not mean there is a lack of good faith).

Second, even if Mr. McDonnell had been able to establish that the petition had been filed without good faith, and even if Debtor's motion under section 362(c) had been denied, that is unlikely to have resulted in an enforceable security interest pursuant to any abstract of judgment. In that situation there would have been no automatic stay, so if Mr. McDonnell had recorded his abstract he would have obtained an advantage over other creditors, but then that probably would have led to dismissal of this case, followed by filing either a voluntary or involuntary bankruptcy petition commencing a new case, and then avoidance of the security interest obtained by Mr. McDonnell within 90 days prior to that new case as a preference. *See, e.g., In re Hagen*, 922 F.2d 742, 745 (11th Cir. 1991) ("the creation of a lien in favor of a previously unsecured creditor is a transfer for purposes of section 547").

(b) Possible request for relief under wrong statutory provision

If Mr. McDonnell had appeared at the hearing on Debtor's 362(c) motion and pointed out that relief was sought under the wrong statutory provision (paragraph "(3)" instead of "(4)"), Debtor could have amended his request. In any event, this Court's order (dkt. 21) granted relief under whichever paragraph was applicable.

(c) Trustee's change of position

Trustees are permitted (and sometimes required) to change their position. *See, e.g., In re Mickey Thompson Entm't Group, Inc.*, 292 B.R. 415, 421 (9th Cir. BAP 2003) ("a trustee's fiduciary duty to maximize the assets of the estate trumps any contractual obligation that a trustee arguably may incur in the course of making an agreement that is not enforceable unless it is approved by the court") (citation omitted). In any event, Mr. McDonnell has not established any prejudice from the fact that it is Trustee, joined by the IRS, who is objecting, as opposed to just the IRS or just some other creditor.

(d) Procedures

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CONT...

Willie John Riley

Chapter 7

This Court's prior order authorizing the sale and distribution (dkt. 137) included notice and an opportunity for objections to the proposed distributions to Mr. McDonnell. So the tentative ruling is that it was not necessary for the Trustee to satisfy the standards under Rule 9023 or 9024, because it is consistent with this Court's intent in establishing a period for objections that Trustee himself could object (based on his further review of the situation). Alternatively, this Court can treat the Trustee's notice (dkt. 140) as a motion for reconsideration under those rules.

Alternatively, this Court can reconsider its own motions at any time and for any reason, or just "fresh thoughts." *In re White Crane Trading Co.*, 170 B.R. 694, 700-01 (Bankr. E.D. Cal. 1994).

For all of these reasons, any procedural concerns with the Trustee's request are not persuasive.

(3) Conclusion

From the facts alleged by Mr. McDonnell, he is justifiably frustrated with Debtor. But other creditors also are frustrated. Mr. McDonnell essentially is seeking reconsideration of this Court's order continuing or imposing the automatic stay (dkt. 21), so as to retroactively validate his abstract of judgment, so that he can be paid ahead of other creditors (and the Trustee). The tentative ruling is that he has not established a sufficient basis to do so.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Willie John Riley

Represented By
Levi Reuben Uku

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Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Jason Balitzer
Steven Werth

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11:00 AM

2:18-24612 Robert Panosian

Chapter 7

Adv#: 2:18-01457 Los Angeles Federal Credit Union v. Panosian

#3.00 Hrg re: Motion for Default Judgment

Docket 8

***** VACATED *** REASON: Per Hearing on 3/5/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert Panosian

Represented By
Christopher S Reyes

Defendant(s):

Robert Panosian

Represented By
Kurt Zimmerman

Movant(s):

Los Angeles Federal Credit Union

Represented By
Alana B Anaya

Plaintiff(s):

Los Angeles Federal Credit Union

Represented By
Alana B Anaya

Trustee(s):

David M Goodrich (TR)

Pro Se

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Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:19-01018 Pachulski v. Watson

#4.00 Status conference re: Complaint for avoidance
and recovery of preferential transfers

Docket 1

***** VACATED *** REASON: Case dismissed (dkt. 4)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Grace Watson

Pro Se

Plaintiff(s):

Richard M. Pachulski

Represented By
James KT Hunter

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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11:00 AM

2:18-15867 Andrew Mark Anderson

Chapter 13

Adv#: 2:18-01348 Strategic Funding Source, Inc. v. Anderson

#5.00 Cont'd Status Conference re: Complaint to Determine
Non-Dischargeability of Debt
fr. 01/08/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Continue to 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19, in light of the parties' Joint Status Report (adv. dkt. 10). Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 5) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant

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"believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 1/22/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 11/2/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 4/19/19.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 2/12/19.

Continued status conference: 2/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge

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Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrew Mark Anderson

Represented By
D Justin Harelik

Defendant(s):

Andrew Mark Anderson

Pro Se

Plaintiff(s):

Strategic Funding Source, Inc.

Represented By
Jeannie Kim

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#6.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required.

The tentative ruling is to continue this status conference to 5/7/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

The tentative ruling is (1) to continue this status conference to 3/26/19 at 11:00 a.m., with no written status report required prior to that continued date, and (2) to extend the discovery cut off to 3/15/19 per the parties' Joint Status Report (adv. dkt. 45). Plaintiff is directed to lodge a proposed scheduling order containing this new deadline, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form. Appearances are not required on 2/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

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(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's scheduling order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

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Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. docket number(s) 23).

(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

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Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and

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orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

Reasons: At the status conference on 1/23/18 there was no appearance for

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CONT...

David MacMillan

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the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the

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parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By

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	Robert S Altagen
Cynthia B. Martin	Represented By Robert S Altagen
Aston Business Solutions, Inc.	Represented By William H Brownstein
Eric A. Martin	Represented By William H Brownstein
Glenn J. Chaffin	Represented By William H Brownstein
Andrae Perez	Pro Se
Accelerated Capital Group, Inc.	Pro Se
Does I through XX	Pro Se

Plaintiff(s):

Rosendo Gonzalez	Represented By James A Dumas Jr
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Trustee(s):

Rosendo Gonzalez (TR)	Represented By James A Dumas Jr
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Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

- #7.00** Cont'd Status Conference re: Complaint to Determine Nondischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

This Court has reviewed the latest filed documents in this adversary proceeding, including the parties' status reports (dkt. 89, 91). This Court is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

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Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).

Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).

Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).

Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).

Dispositive motions to be heard no later than: TBD

Joint Status Report: 3/12/19.

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Continued status conference: 3/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen

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Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

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Adv#: 2:17-01485 Gonzalez v. Macmillan et al

- #8.00** Cont'd Status Conference re: Complaint for Fraudulent Transfer and Declaratory Relief
fr. 12/5/17, 02/13/18, 3/20/18, 4/17/18, 07/17/18, 08/14/18,
10/16/18, 11/27/18, 12/11/18, 1/29/19, 03/05/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required. The tentative ruling is to set a trial date as set forth below. The parties should be prepared to address Defendants' request that trial be conducted with live testimony on direct examination, rather than by declaration (see adv. dkt. 70, p.4).

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 10, 11).

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

67) Discovery cutoff (for *completion* of discovery): 3/25/19 (see adv. dkt.

Expert(s) - deadline for reports: 3/22/19 (see *id.*)

Expert(s) - discovery cutoff (if different from above): 3/29/19 (see *id.*)

59) Dispositive motions to be heard no later than: 2/28/18 (see adv. dkt.

Joint Status Report: 4/23/19

Continued status conference: 4/30/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 5/7/19

Pretrial conference: 5/14/19 at 2:00 p.m.

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Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 5/21/19 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 5/28/19 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Continue to 3/26/19 at 11:00 a.m., with a brief status report due 3/19/19, based on the parties' status report (adv. dkt. 69), as well as the amended discovery schedule (adv. dkt. 65, 67). At the continued hearing this Court anticipates setting a trial date, and addressing procedures such as whether direct testimony will be by declaration or live (as Defendants request). Appearances are not required on 3/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Continue to 1/29/19 at 11:00 a.m., with a brief status report due 1/15/19. Appearances are not required on 12/11/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Continue to 12/11/18 at 11:00 a.m., per the latest status report (dkt. 56).
Appearances are not required on 11/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required. There is no tentative ruling but the parties should be prepared to address the following issues.

(1) Background

Plaintiff filed a motion (adv. dkt. 14) for summary judgment on his first claim for relief (constructively fraudulent transfer) and the second claim for relief (declaratory relief that the purported trust is ineffective to prevent creditors from reaching the assets) in his complaint (adv. dkt. 1). This Court issued an order (adv. dkt. 31) denying summary judgment on the first claim but granting it on the second, for the reasons stated therein - principally the reasons in the Revised Tentative Ruling for 3/20/18 (reproduced below).

Defendants appealed. The District Court dismissed the appeal as interlocutory. See adv. dkt. 52, 53. The parties' joint status report states (adv. dkt. 54, p.4, sec.G) that they have executed but not filed a stipulation "that the dismissed appeal can be re-filed as an interlocutory appeal but on the condition that the trial proceed on the remaining fraudulent transfer claim for relief."

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(2) Current issues

It is not clear what the parties intend, or what procedural steps this Court should take. Whatever is in the parties' unfiled stipulation presumably will not bind the District Court (or any other court hearing the appeal) in deciding whether to grant leave to appeal this Court's interlocutory ruling, so what do the parties hope to accomplish with their stipulation? Moreover, the parties' stated intention to proceed simultaneously in both this Bankruptcy Court and the District Court usually is not possible because an appeal generally deprives this court of jurisdiction. Cf. Rule 54(b) (Fed. R. Civ. P., incorporated by Rule 7054, Fed. R. Bankr. P.), and compare Rule 8008 (Fed. R. Bankr. P.). To the extent, if any, that this Court has discretion to grant any relief that would make such dual-tracking possible, is that an appropriate use of judicial resources? On a separate issue, if the plaintiff intends to proceed with the first claim for relief, does the plaintiff plan to amend the complaint to cure the deficiencies in that claim (constructively fraudulent transfer) noted in the tentative ruling for 3/20/18?

The tentative ruling is to continue this status conference to 11/6/18 at 11:00 a.m. with a deadline of 10/23/18 for the parties to file and serve whatever papers they deem appropriate to address the foregoing issues and any other relevant issues at this stage of these proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Continue to 10/16/18 at 11:00 a.m., with a brief status report due 10/2/18. See status report (adv. dkt. 51). Appearances are not required on 8/14/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

Continue to 8/14/18 at 11:00 a.m. as requested by the parties in their joint status report (see adv. dkt. 50), with a brief status report due 7/31/18.

Appearances are not required on 7/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). There is no tentative ruling, but the parties should apprise this court about the status of any appeals or other matters (see dkt. 31, order granting in part plaintiff's motion for summary judgment, and dkt. 35, notice of appeal). The tentative ruling is to set a continued status conference for 7/17/18 at 11:00 a.m., with a brief status report due 7/6/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 3/20/18:

Appearances required.

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(1) Motion for summary judgment (adv. dkt. 14-18, the "MSJ"); opposition papers (adv. dkt. 22-25); and reply papers (adv. dkt. 26-27). The tentative ruling is to deny in part and grant in part the MSJ, as set forth below.

(a) Legal standards. The legal standards governing motions for summary judgment are well known, do not appear to be disputed by the parties, and need not be repeated in this tentative ruling.

(b) First claim for relief (fraudulent transfer). Although the complaint (adv. dkt.1) asserts fraudulent transfer claims under both California law and the Bankruptcy Code, the MSJ limits this to 11 U.S.C. 548. The MSJ also asserts only constructive, not actual, fraud. See adv. dkt. 14, pp.2:21-3:1.

The complaint alleges less than reasonably equivalent value (11 U.S.C. 548(a)(1)(B)(i)) - namely, transfers by the debtors/defendants for no value from the debtors and/or their revocable trusts (the assets of which apparently could be reached by creditors) to irrevocable trusts. But to establish the elements of a constructively fraudulent transfer the plaintiff must also establish one of three types of insolvency (commonly referred to as "balance sheet," "inadequate capital," or "cash flow" insolvency) or else a transfer to an insider under an "employment contract." See 11 U.S.C. 548(a)(1)(B)(ii)(I)-(IV). There is no allegation about any employment contract, so the plaintiff must establish some type of insolvency.

The MSJ refers to balance sheet insolvency (11 U.S.C. 101(32A)). But the complaint never alleges that type of insolvency, so the plaintiff cannot be granted partial summary judgment as to that element (11 U.S.C. 548(a)(1)(B)(ii)(I)).

The complaint alleges inadequate capital and inadequate cash flow (in language that roughly parallels 11 U.S.C. 548(a)(1)(B)(ii)(II)&(III)). But the MSJ extrapolates that those types of insolvency could be presumed based on the bankruptcy schedules many months after the transfer, and from the sheer number of lawsuits and eventual judgments against the defendants and other circumstantial evidence. Those things might (or might not) be persuasive at trial, but they are insufficient to establish a lack of genuine issue of fact.

(c) Second claim for relief (declaratory relief related to nature of the trusts). The complaint (adv. dkt. 1, para. 23) seeks a declaratory judgment (i) that the debtors/defendants are "beneficiaries" of the trusts within the

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meaning of California Probate Code 15304, (ii) that the benefits the debtors/defendants receive from the trusts are "property of the estate" under 11 U.S.C. 541, and (iii) that the trusts qualify as "self-settled trusts" under California law, which the MSJ uses as shorthand for a trust the assets of which are reachable by creditors.

Various provisions of the Bankruptcy Code define what property is part of the bankruptcy estate:

The bankruptcy estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). It does not include, however, "any power that the debtor may exercise solely for the benefit of another," 11 U.S.C. § 541(b)(1), nor does it include "[p]roperty in which the debtor holds ... only legal title and not an equitable interest." 11 U.S.C. § 541(d). Similarly, the estate does not include property containing "[a] restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law." 11 U.S.C. § 541(c)(2). [*In re Cutter*, 398 B.R. 6, 18-19 (9th Cir. BAP 2008).]

Under California law:

(a) If the settlor is a beneficiary of a trust created by the settlor and the settlor's interest is subject to a provision restraining the voluntary or involuntary transfer of the settlor's interest, the restraint is invalid against transferees or creditors of the settlor. The invalidity of the restraint on transfer does not affect the validity of the trust.

(b) If the settlor is the beneficiary of a trust created by the settlor and the trust instrument provides that the trustee shall pay income or principal or both for the education or support of the beneficiary or gives the trustee discretion to determine the amount of income or principal or both to be paid to or for the benefit of the settlor, a transferee or creditor of the settlor may reach the maximum amount that the trustee could pay to or for the benefit of the settlor under the trust instrument, not exceeding the amount of the settlor's proportionate contribution to the trust. [California Probate Code 15304]

The California Supreme Court has held that to the extent that the settlor of a trust is also a beneficiary, creditors can reach the property held by

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It is against public policy to permit a man to tie up his property in such a way that he can enjoy it but prevent his creditors from reaching it, and where the settlor makes himself a beneficiary of a trust any restraints in the instrument on the involuntary alienation of his interest are invalid and ineffective. Since [the settlor] was the sole beneficiary, all the property in the trust is subject to the claims of his creditors. [*Nelson v. Cal. Trust Co.*, 33 Cal.2d 501, 501-02 (1949) (emphasis added)]

These principles have been more recently reaffirmed in a decision of the Ninth Circuit Court of Appeals:

[U]nder California law, a settlor of a spendthrift trust cannot also act as beneficiary of that trust (*i.e.*, California law prohibits "self-settled" trusts). See Cal. Prob.Code § 15304(a) (West 1987). California law voids self-settled trusts to prevent individuals from placing their property beyond the reach of their creditors while at the same time still reaping the bounties of such property. See *Nelson v. California Trust Co.*, 33 Cal.2d 501, 202 P.2d 1021, 1021 (Cal. 1949). [*In re Moses*, 167 F.3d 470, 473 (9th Cir. 1999)]

In addition, the MSJ cites authority that if beneficiaries exercise "excessive" control over a trust then under California law they cannot "shield that trust with an anti-alienation provision lacking true substance." *In re Moses*, 167 F.3d 470, 473 (9th Cir. 1999) (citation omitted) (emphasis added). See also *In re Cutter*, 398 B.R. 6, 22 (9th Cir. BAP 2008). MSJ (adv. dkt. 14, p.10:1-14).

The debtors argue that their situation is different from that in *Cutter* because "the Debtor in *Cutter* could potentially use all the Trust's principal and income to maintain his standard of living, without limitation" whereas "[t] here is no such provision" in the debtors' trusts. Dkt. 22, p.3:22-26 (italics added to case name). That distinction of *Cutter* (and the other authorities cited above) is unpersuasive.

The MSJ points to the following facts in support of its argument that (i) the debtors are also beneficiaries and (ii) the anti-alienation provisions of the trust lack "true substance." The debtor/defendants do not raise any genuine contrary issues of fact.

(i) The debtors deducted mortgage interest and real estate

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taxes on their 2015 tax returns. See dkt. 18, p.4:5-9 (and evidence cited therein).

(ii) During the "initial period" of the trusts (the earlier of the grantors' deaths or 16 years) the debtors can continue to live in the property rent-free. See Dkt. 18, p.4:10-15 (and evidence cited therein).

(iii) During that same period, any net income or excess cash is distributed to the debtors. See Dkt. 18, p.4:16-21 (and evidence cited therein).

(iv) The debtors can manage the property as "absolute owners." See Dkt. 18, p.4:22-28 (and evidence cited therein).

(v) The debtors can loan money to themselves and/or use the property to secure loans to themselves. See Dkt. 18, p.5:2-7 (and evidence cited therein).

(vi) During their lifetime, the debtors can make discretionary distributions to their children, and upon their deaths the trust assets are to be distributed to their children. See Dkt. 18, p.5:8-12 (and evidence cited therein).

Based on the foregoing, it appears that the debtors are indeed beneficiaries of the trusts to a large extent, and moreover the anti-alienation provisions of the trust lack "true substance" as that term has been used in the cited authorities. Accordingly, the tentative ruling is to grant the MSJ on the second claim for relief.

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. The applicable deadlines are reflected in this court's orders (adv. dkt. 7, 20). The parties should be prepared to address whether there are any non-mooted matters left to resolve in this adversary proceeding, if this Court is not persuaded to depart from the foregoing tentative ruling on the MSJ.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... **David MacMillan**

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Tentative Ruling for 3/20/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 2/13/18:

Continue this status conference to be concurrent with the hearing on the pending summary judgment motion, which is presently scheduled for 3/20/18 at 11:00 a.m. Appearances are not required on 2/13/18.

This court has reviewed the parties' late-filed joint status report (adv. dkt. 10, 11) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (at the hearing on 12/5/17). See also adv. dkt. 10, 11.

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. The applicable deadlines are reflected in this court's orders (adv. dkt. 7, 20).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/5/17:

Appearances required. The court has reviewed the parties' joint status report (dkt. 5) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the

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Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

This court recognizes that, at least at this stage, the attorney who filed the answer (dkt. 4) for both trustees of the trust has also executed the Status Report (dkt. 5) on behalf of one of the defendant trustees (the debtor/defendant) asserting that neither of them can consent to this Bankruptcy Court entering a final judgment because third party beneficiaries of the trust allegedly have a right to have their rights litigated "outside of this venue." Counsel for the answering defendants should be prepared (a) to explain whether this is a *Stern* objection or something else and (b) whether both answering defendants or only one of them takes this position, and if the former, why he did not execute the status report on behalf of both of them.

Counsel for the plaintiff should be prepared to address whether the plaintiff contends that there are no additional parties who need to be joined, and why.

(2) Mediation. The plaintiff suggests in the Status Report (adv. dkt. 5) that mediation, if any, should not be ordered before dispositive motion(s) are heard, which the plaintiff anticipates will be by 3/1/18. The tentative ruling is to revisit the issue of mediation after that date.

(3) Deadlines: This adversary proceeding has been pending since 9/26/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 3/1/18

Expert(s) - deadline for reports: 2/20/18

Expert(s) - discovery cutoff (if different from above): 3/1/18

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Dispositive motions to be heard no later than: 3/13/18

Joint Status Report: 1/30/18

Continued status conference: 2/13/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 4/10/18

Pretrial conference: 4/17/18 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 4/19/18 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 4/23/18 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By

Robert S Altagen

Cynthia B. Martin

Represented By

Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By

Christian T Kim

James A Dumas Jr

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Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#1.00 Hrg re: Motion to Reject Lease or Executory Contract Under Section 1113 to Reject and Terminate the Collective Bargaining Agreement Between Debtor and Local 986 and Local 481

Docket 62

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 3, 3/26/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#2.00 Hrg re: Motion for Order Authorizing Sale Of Personal Property

Docket 95

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 3,
3/26/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate delcaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... **Schaefer Ambulance Services, Inc**

Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not

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apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets,

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so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further

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extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (see, e.g., *In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (e.g., were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

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2:18-12429 Dana Hollister

Chapter 11

#4.00 Hrg re: Motion for order further extending exclusivity
under section 1121

Docket 759

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #1 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#5.00 Hrg re: Motion to compel abandonment of property

Docket 59

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 6,
3/26/19 at 1:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19

Docket 5

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required for the status conference, but not for the abandonment motion. Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Dismissal or conversion

Debtor's fourth status report alleges (dkt. 62, p.2:10) that a "363 motion, supported with a stalking horse bid, will be submitted to the court" at some unspecified future date. This Court and parties in interest have heard that hope before, but it appears highly unlikely that Debtor will receive a bid that will exceeding the losses that are accruing meanwhile.

Debtor's situation appears to be getting steadily worse, both on a cash basis and in terms of accrued liabilities for postpetition real property rent, equipment leasing, etc. See MOR for Jan. 2019 (dkt. 57) (small positive cash flow, but \$48,522.19 in postpetition payables as against \$6,281.31 receivables) *and* MOR for Feb. 2019 (dkt. 63) lines 22-25 (net cash flow of (\$1765.14) and increase in payables to \$96,380.19 - almost double the prior month - as against \$6,281.31 receivables - unchanged).

The tentative ruling is to dismiss this case and let Debtor and its secured creditors/equipment lessors make whatever arrangements they see fit for disposing of the collateral/leased equipment. (Office of the United States Trustee to lodge proposed order.)

(b) Motion to Compel Abandonment of Property (dkt. 59)

Grant. (Movant Shmashssma, LLC to lodge proposed order.)

Proposed orders: The above-referenced parties are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR

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CONT... Jackies Cookie Connection LLC
9021-1(b)(1)(B).

Chapter 11

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues.

Debtor's status report (dkt. 55) reports some alleged progress in exploring either sale(s) of assets or sale of the business or both. What is the timeline? What assurances do creditors have that debtor's uncertainty on these issues (two months into this case) will not deplete rather than enhance any potential recoveries?

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., with a *brief* status report due 3/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. Continue as set forth below.

(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and

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related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy

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CONT... **Jackies Cookie Connection LLC** **Chapter 11**

schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:18-11714 Teresa Dominguez Aguilar

Chapter 11

#7.00 Cont'd status Conference re: Post Confirmation
fr. 3/20/18, 5/1/18, 7/10/18, 9/4/18, 11/27/18

Docket 6

***** VACATED *** REASON: Order closing case interim basis (dkt. 88)**

Tentative Ruling:

Party Information

Debtor(s):

Teresa Dominguez Aguilar

Represented By
Onyinye N Anyama

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2:19-10762 Koi Design LLC

Chapter 11

#8.00 Cont'd hrg re: Emergency Motion for Authority to: (A) Use Cash Collateral on an Interim Basis Pending a Final Hearing; (B) Grant Replacement Liens; and (C) Set Final Hearing fr. 01/30/19, 03/05/19

Docket 4

***** VACATED *** REASON: Cont. 4/9/19 at 1:00 p.m. per stipulation (dkt. 124) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19

Docket 1

***** VACATED *** REASON: Cont. to 4/9/19 at 1:00 p.m. per stipulation
(dkt. 124) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:18-18929 Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/4/18, 10/9/18, 11/6/18, 12/11/18, 01/15/19,
2/26/19

Docket 14

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required.

(1) Current issues

(a) Amended plan (dkt. 72) and disclosure statement (dkt. 73)

(i) Exhibits generally

The exhibits should not all be attached to both documents. Exhibits A and B should be attached to the Plan and the rest to the Disclosure Statement (as stated in the Disclosure Statement). Attaching duplicate exhibits to both documents adds confusion, and expense to copy and mail the documents.

(ii) Exhibit B (dkt. 72 at PDF p. 10)

This exhibit shows a cure amount of "none" but then lists a negative amount on the Effective Date, which artificially reduces the payments required on the Effective Date. It appears that, but for this calculation error, Debtor would run out of cash in the first month.

(iii) Exhibit C (dkt. 72 at PDF pp.12-13)

First, despite overly optimistic projections (see below) this exhibit still shows projected losses. Second, there is no support for the projections: Exhibit C1, lines 1a and 1b include a space to show the source. Both "Historical gross inc." and "Historical expenses" are supposed to be dollar amounts from a "recent MOR part IX or equivalent" which is supposed to be "attached/at docket# _____," but there is no such document attached or referenced. (Emphasis omitted.)

(iv) Exhibit E (dkt. 72 at PDF p. 15)

This exhibit shows monthly payments of \$1,137.68 to the State Bank of India, for total payments of \$50,000 on its bifurcated secured claim. First, this is completely different from the \$3,667.23 shown on Exhibit A (dkt. 72 at

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PDF p.9) on its unbifurcated claim. What treatment is Debtor actually proposing?

Second, because the spreadsheet automatically fills in the numbers from Exhibit E on Exhibit A, someone must have substituted different exhibits (perhaps from different drafts). This means that counsel's declaration (dkt. 72, p.7) that the spreadsheet has not been altered is FALSE.

This is the second time that unauthorized modifications have occurred. Debtor's counsel is cautioned that if this happens again that may result in sanctions.

(b) Feasibility of any reorganization

(A) Actual performance

MOR #7 (for 2/19, dkt. 74, p.1) shows a net loss despite an "IRS refund & transfers from savings," and despite the fact that the adequate protection payment to Bank of India is only \$2800/mo. (MOR dkt.74, at PDF p.12) but the Plan (dkt. 72) proposes to pay the bank \$3,667.23/mo. How is that remotely realistic?

(B) Projections

A letter from Debtor's principal dated 3/12/19 (dkt. 72, at PDF p.11) states that Nov.-Jan is "always usually a much slower period in our industry and sales will normally be lowest during these months"; but the letter projects better performance in February and an increase of \$500 per 7-month period thereafter (the Disclosure Statement is even rosier, with a projected \$1000 increase in the first period, dkt. 73, Ex.C, line 7a, Period A). If those projections are already off, how can this Court find that any plan is feasible (11 U.S.C. 1129(a)(11))?

Should this case be dismissed or converted?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (not timely served, see dkt. 24, 35 & 41, but the tentative ruling is not to set a new bar date because any party in interest who asserts prejudice can seek relief).

(b) Plan/Disclosure Statement*: see above. The tentative ruling is that, if this case is not dismissed or converted, Debtor will need to show substantial progress in MOR results before any further revisions to any plan or disclosure statement.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to continue this status

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conference to 4/30/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues

(a) Disclosure statement (dkt. 64) and plan (dkt. 65)

Judge Bason will review various issues with these documents at the Status Conference, and address when amended documents must be filed.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: see above

(c) Continued status conference: The tentative ruling is to continue this status conference to 3/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues

(a) Monthly Operating Reports ("MORs")

The November MOR (dkt. 62, p.2) includes numerous entries described as "Funds Transfer." How is the reader to know what that means? The same MOR includes a column of numbers with nothing else next to it (dkt. 62, p.3). How is the reader to know what that means?

(b) Plan and Disclosure Statement ("D/S")

The deadline to file the Plan and D/S is fast approaching (see below). What is the outline of Debtor's intended plan? Has Debtor reviewed Judge Bason's procedures and form of order re same?

(c) Employment of counsel

At the hearing on 12/11/18 this Court adopted the tentative ruling approving counsel's employment, which directed that a proposed order be lodged within 7 days. Why has no such order been lodged?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: 1/31/19 (dkt. 59)

(c) Continued status conference: The tentative ruling is to continue this status conference to 2/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

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Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) MORs (dkt. 51, 52, 50 for Aug., Sept. & Oct.)

(i) The Payroll Account continues to show a negative balance. How is that sustainable? (ii) The amended August MOR provides for payments to insider Savita Viradia. Why was there no notice of insider compensation filed and served for this person, and what consequences should follow? (iii) The Tax Account shows no activity, and the Tax Liabilities section is blank. Is Debtor paying and/or reserving for all employment, sales, business, income, and other taxes?

(b) Motion to employ (dkt. 49)

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: The tentative ruling is to continue this status conference to 1/15/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if

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advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) MORs (dkt. 44, 45)

MOR1 (for August, 2018) shows an ending balance of negative \$4,549.03. MOR2 (for September 2018) shows an ending balance of negative \$4,074.81. Both MORs also show negative postpetition accounts receivable. What does that mean?

Both MORs were also filed late. They were due middle of the month following the reporting period, and this Court's adopted tentative ruling for 10/9/18 directed that the defective August MOR be cured by 10/15/18 but it and the September MOR were not filed until 10/31/18.

Are the (untimely) MORs inaccurate? How can parties in interest and this Court rely on them for current information? If they're accurate, they appear to show losses, or at least an inability to generate profits that would be needed to reorganization.

In view of all the foregoing, should this case be converted or dismissed?

(b) Insider compensation

Debtor's notices of insider compensation (dkt. 46, 47) were not served until 10/24/18, even though this Court's adopted tentative ruling for 10/9/18 directed service no later than 10/12/18. Why?

Meanwhile, although Debtor's principal Neel Viradia declares under penalty of perjury that no unauthorized insider compensation has been paid (dkt. 45, p.16, answer #2), the breakdown of payroll in the MORs apparently shows otherwise (e.g., dkt. 45, p.5, lines 1-2). The form itself states (e.g., dkt. 47, p.2, bottom of page): "[T]his notice ... must be filed and served fifteen days before any pay out of compensation" What consequences should follow from Debtor's apparent violation of that limitation?

(c) Employment (dkt. 32, superseded by amended application, dkt. 42)

The amended application does not specify whether the \$10,000 fee already paid by Batuk Viradia (and the filing fee), or the \$2,000 he has committed to pay, are loans to Debtor, or gifts, or equity investments, or something else. Nor has he filed a declaration confirming that he understands that proposed counsel's sole loyalty must be to Debtor (not to Mr. Viradia), and that has been informed that there might be conflicts of

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interest and he may wish to seek separate counsel (e.g., conflicts could exist if Mr. Viradia received any preferential payments or other avoidable transfers, or if Mr. Viradia would prefer that Debtor take a course of action that is not in the best interests of creditors).

More generally, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

The tentative ruling is that, if this case is not dismissed or converted, the employment application must be continued to the date of the continued status conference (set forth below) with a deadline of 11/13/18 for Debtor to file Mr. Viradia's declaration, with a copy of this tentative ruling attached as an exhibit, addressing the issues described above.

(d) Cash collateral. If this case is not dismissed or converted, the tentative ruling is to authorize the use of cash collateral on a final basis, on the same terms as the interim authorization (dkt. 37).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35). Although the order was not timely served (see dkt. 41), the tentative ruling is that the confusion of setting yet another bar date would outweigh the benefit, and that this Court can address any prejudice from shortened notice when and if anyone files a late claim and seeks to have the claim treated as timely.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 12/11/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

**Revised Tentative Ruling for 10/9/18:
Appearances required.**

(1) Current issues.

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(a) Cash collateral. The tentative ruling is to authorize the use of cash collateral as set forth in the tentative ruling for calendar no. 6 (10/9/18 at 1:00 p.m.).

(b) Insider compensation. Local Bankruptcy Rule ("LBR") 2014-1(a) requires a notice and opportunity to object before any insider compensation is paid. But no such notice has been filed, and Debtor's Monthly Operating Report ("MOR") for the month ending 8/31/18 reflects payments to each of two insiders. Dkt. 34, at PDF p.8. The tentative ruling is to direct Debtor to serve the notice using the local form no later than 10/12/18.

(c) Bar date. On 9/5/18 this Court entered its "Order Setting Bar Date: November 9, 2018; and Directing Service by Debtor." Dkt. 24. The debtor failed to serve that order. Why? The tentative ruling is to issue an amended order setting a bar date as set forth below.

(d) MOR (dkt. 34). The MOR appears to be incomplete. For example, it refers to multiple accounts but appears to provide only a combined report; many of the entries are vague or have no description; and page one includes a reference to "Non DIP personal checking (see attached letter)" but no letter or any other explanation is attached. The tentative ruling is to set a deadline of 10/15/18 to file an amended MOR correcting these and any other deficiencies.

(e) Employment (dkt. 25). As highlighted by the objection of the United States Trustee ("UST") (dkt. 28), the parties should be prepared to address (a) the proposed \$12,000 flat fee under 11 U.S.C. 328 and (b) the source of the "loan" for \$10,000 of that fee (dkt. 25, p.8) and the source of the remaining \$2,000 plus the filing fee.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: See above. In view of Debtor's failure to serve the order (dkt.24), the tentative ruling is to issue an amended order setting a bar date of 12/28/18 and directing the debtor to serve that order no later than 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/6/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/4/18

Appearances required by counsel for the debtor and by the debtor(s) themselves.

- (1) Current issues. This Court has no issues to raise sua sponte.
- (2) Deadlines/dates. This case was filed on 8/2/18.
 - (a) Bar date: 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: file by 11/1/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 10/9/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Party Information

Debtor(s):

Newark Special Technologies, Inc.

Represented By
Joseph L Pittera

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2:18-12453 Abelino Mariscal Gonzalez

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#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 4/10/18, 5/1/18, 6/12/18, 08/07/18, 9/4/18,
10/16/18, 11/6/18, 12/11/18, 01/15/19, 2/26/19

Docket 7

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. ("WF," Class 2B in the debtor's draft Plan, dkt. 47)? If Debtor cannot negotiate a consensual resolution with WF, Debtor must either attempt a non-consensual plan or this case may be dismissed or converted.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 4/30/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. ("WF," Class 2B in the debtor's draft Plan, dkt. 47)? This case is nearing its one year anniversary. If Debtor cannot negotiate a consensual resolution with WF, Debtor must either attempt a non-consensual plan or this case may be dismissed or converted.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

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CONT... Abelino Mariscal Gonzalez

Chapter 11

- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).
 - (b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.
 - (c) Continued status conference: 2/26/19 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

- (1) Current issues
- (a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?
- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).
 - (b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.
 - (c) Continued status conference: 1/15/19 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

(b) BONY/Mellon. The tentative ruling is to approve the Bank of New York Mellon Stipulation (dkt. 52).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 12/11/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges,"

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"Bason, N.", "Instructions/Procedures").

The parties should be prepared to discuss what progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47). This Court is aware of the motion to approve the stipulation with the holder of Class 2A claims, Bank of New York Mellon (the "Mellon Stip," dkt. 52). The tentative ruling is to move the Mellon Stip hearing from 11:00 a.m. to 1:00 p.m., and continue this status conference to the same date and time, with no written Status Report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:
Appearances required.

(1) Current issues. This Court has reviewed the debtor's draft plan (dkt. 47) and disclosure statement (dkt. 46) and this Court has no issues to raise sua sponte. Has the debtor had any negotiations with secured creditors? Is it more appropriate to allow additional time for such negotiations, or to authorize the debtor to mail a voting package to all parties in interest and set a combined hearing on final approval of the disclosure statement and confirmation of the plan for the same time and date as the continued status conference set forth below?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/7/18:

Continue as set forth below. Appearances are not required on 8/7/18.

- (1) Current issues. This Court has no issues to raise sua sponte.
- (2) Deadlines/dates. This case was filed on 3/6/18.
 - (a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).
 - (b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 9/4/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

- (1) Current issues. The debtor's proofs of service continue to be defective.

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Elizabeth Cruz declares that she has served the "PROOF OF SERVICE" itself, not the underlying orders. See dkt. 20 at PDF p.2 and dkt. 31 at PDF p.2.

At the hearing counsel is directed to explain why the proofs of service are defective, and what steps will be taken to correct this issue so that it no longer occurs. The deadline is 6/19/18 to file further amended proofs of service of both orders (the order setting principal status conference etc. at dkt. 6, and the bar date order at dkt. 23).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (Order, dkt. 23). See above.

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/7/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/1/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion (dkt. 13). Counsel must address:

(i) Income as of petition date or current? The debtor has filed an amended bankruptcy Schedule I (dkt. 30). Is that actually intended to be a decaration of postpetition income, or a correction of the debtor's income as of

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the petition date?

(ii) Amended budget motion? Should an amended budget motion needs to be filed and served, or is such notice unnecessary and should the budget be deemed amended, in view of what appears to be an increase of approximately \$168 in the debtor's monthly income (compare dkt. 13 at PDF p.8, debtor's personal income of \$2,800, with dkt. 30, line 7, debtor's personal income of \$2,968)?

(b) Cash collateral motion (dkt. 12). Grant on a final basis, on the same terms as the interim order (dkt.24).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (Order, dkt. 23). **Note**: Timely served? Per the proof of service (dkt. 26, the "POS") the debtor served the POS itself on creditors. Presumably the debtor means that she served the order on creditors (not the POS), but the debtor is directed to file an amended POS saying so, no later than 5/3/18.

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/12/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

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(1) Current issues.

(a) Failure to serve order. This Court's order setting this status conference (dkt. 6) directed the debtor to serve a copy of that order on all parties in interest no later than 14 days prior to this status conference. No proof of service appears on the docket. The tentative ruling is to set a deadline of 4/11/18 for the debtor to effect such service, with a caution to counsel that in future such failure may result in sanctions.

(b) Budget motion (dkt. 13). Grant on an interim basis, with a final hearing on the same date at the continued status conference set forth below.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/1/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Abelino Mariscal Gonzalez

Chapter 11

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#12.00 Cont'd hrg re: Application for Compensation for Legal Services Rendered and Reimbursement of Expenses on Behalf of A.O.E. Law & Associates for Debtors In Possession from September 13, 2018 through January 15, 2019 for A.O.E Law Associates, APC
fr. 2/26/19

Docket 72

***** VACATED *** REASON: Order granting Motion (dkt. 78)**

Tentative Ruling:

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#13.00 Cont'd hrg re: Motion for Extension of Time to
File a Complaint Objecting to Discharge
fr. 2/26/19

Docket 53

Tentative Ruling:

Tentative Ruling for 3/26/19:

Please see tentative ruling in status conference (calendar no. 14, 3/26/19 at 1:00 p.m.).

Tentative Ruling for 2/26/19:

Please see tentative ruling in status conference (calendar no. 4, 2/26/19 at 1:00 p.m.).

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19

Docket 7

Tentative Ruling:

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Deny for lack of prosecution. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). It has now had time to do so, and has not supplemented its motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Edmond Melamed and Rozita Melamed

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Tentative Ruling for 2/26/19:

Continue as set forth below. Appearances are not required on 2/26/19.

(1) Current issues

Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Until the transcript is received for the meeting of creditors (11 U.S.C. 341(a)), it is difficult to assess the issues raised in the opposition (dkt. 63) and reply (dkt. 64). The tentative ruling is to continue this hearing to the same time as the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required.

(1) Current issues

(a) Mazakoda, Inc's Objections to Debtor's Claimed Exemptions (dkt. 45)

The tentative ruling is to set the Objection to Exemptions for hearing on 2/26/19 at 1:00 p.m. (to be concurrent with the motion to extend the deadline to object to Debtors' discharge) with the usual deadlines for any opposition and reply.

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(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 2/1/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Edmond Melamed and Rozita Melamed Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:15-11029 R&J Limited Partnership and JRJ Limited Partnership

Chapter 11

#15.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/03/15, 03/31/15, 04/28/15, 05/26/15, 06/09/15,
07/07/15, 07/28/15, 09/01/15, 09/22/15, 11/17/15, 12/15/15,
01/19/16, 02/23/16, 03/22/16, 05/31/16, 07/19/16, 09/27/16,
11/29/16, 01/10/17, 04/25/17, 06/20/17, 10/17/17, 01/30/18,
04/10/18, 05/08/18, 06/07/18, 07/10/18, 08/07/18, 9/4/18,
10/9/18, 11/6/18, 01/08/19

Docket 9

Tentative Ruling:

Tentative Ruling for 3/26/19:

Continue to 5/21/19 at 1:00 p.m., with no status report required, in view of the latest status report (dkt. 346) and notice of sale (dkt. 347). Appearances are not required on 3/26/19.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Reports (dkt. 343, 345) and Status Report (dkt. 346). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

R&J Limited Partnership

Represented By
Vanessa M Haberbush

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CONT...

R&J Limited Partnership and JRJ Limited Partnership

Chapter 11

David R Haberbush

JRJ Limited Partnership

Represented By

Vanessa M Haberbush

David R Haberbush

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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#16.00 Combined hrg re: Approval of disclosure statement and plan confirmation

Docket 69

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 17, 3/26/19 at 1:00 p.m.)

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

Movant(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot
Jeffrey S Shinbrot

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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#17.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19

Docket 5

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required.

(1) Current issues

(a) UST motion to dismiss (dkt. 79)

Have the issues in this motion been resolved (see dkt. 82)?

(b) Third amended plan (dkt. 69) and disclosure statement (dkt. 68)

The tentative ruling is to approve the Disclosure Statement on a final basis, and confirm the Plan for the following reasons.

Service of the voting package and notice (dkt. 75, 77) appears to have complied with this Court's orders setting this hearing (dkt. 71, 72). The ballot summary (dkt. 81) shows timely acceptance by Classes 2A, 2B, and 2C, untimely acceptance by Class 2D (the last of the secured claim classes), a lack of any votes by Class 4 (nonpriority unsecured creditors, who are to receive a 30% distribution under the Plan), and votes against the plan by Class 6 (mobile home park tenants, who may receive up to the value of their mobile home, if they hold a valid tenancy, or \$2,000 for removing the mobile home). Because not every impaired class has accepted the Plan (paragraph "(8)" of 11 U.S.C. 1129(a)), Debtor must satisfy the requirements for "cramdown" under subsection "(b)" of 11 U.S.C. 1129, as well as the other requirements of subsection "(a)."

The tentative ruling is that Debtor has done so. Cramdown requires, among other things, that a plan be "fair and equitable" and not "discriminate unfairly" as to non-accepting impaired classes. 11 U.S.C. 1129(b).

None of the non-accepting classes have filed any objections to confirmation of the Plan or final approval of the adequacy of the Disclosure Statement. The treatment of Class 2D is justified by its belated acceptance of the Plan. The treatment of Class 4 appears to be justified by the legal

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CONT... **R44 LENDING GROUP, LLC a Delaware Limited Liabilit** **Chapter 11**

requirement to pay secured creditors ahead of unsecured creditors, the "new value" contribution of Debtor's principal, and Debtor's cash flow projections. The treatment of Class 6 appears to be justified by Debtor's disclosure of its legal theory for displacing the mobile home park tenants, and the absence of any contrary arguments or authority. See Disclosure Statement, Exhibit "I" (dkt. 68 at PDF pp.22-24).

The final requirement is the other elements of 11 U.S.C. 1129(a). Those appear to have been satisfied, both by Debtor's use of this Court's form of plan and disclosure statement and by the data included when Debtor completed those forms.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B). In addition, the proposed order must include the language required by Local Rule 3020-1(b), including a post-confirmation status conference as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: See above.

(c) Post-confirmation status conference: 7/9/19 at 1:00 p.m. Status report due 6/25/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:
Appearances required.

(1) Current issues.

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(a) Plan (dkt. 64, the "Plan") and disclosure statement (dkt. 63, the "D/S")

It appears that counsel for Debtor has manually altered the spreadsheets, which defeats the purpose of having automatic (reliable) calculations in the spreadsheets. In addition, it appears that the Plan periods in Ex.A are "1" month and 13 months later (month "14"), whereas on Ex.C Period A is 3 months, Period B is 1 month, and Period C is 6 months, which does not match. In addition, the Effective Date (e.g., on Ex.A & Ex. C) should be revised to a date that is at least two weeks after the combined hearing on the plan and D/S set forth below.

Subject to correction of these issues, the tentative ruling is to conditionally approve the disclosure statement and authorize service of the voting package, all as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 64,63)*: 12/18/18 deadline (i) to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and (ii) to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference. The proposed order should be modified so that the voting package includes Mr. Starflinger's declaration (dkt. 65).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 3/12/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:
Appearances required.

(1) Current issues. This Court has reviewed Mr. Starflinger's declaration (dkt. 62) and will address at the Status Conference Debtor's first amended plan (dkt. 61) and first amended disclosure statement (dkt. 60).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 12/4/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/9/18:
Appearances required.

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(1) Current issues. This Court has reviewed the debtor's status report (dkt. 57) will address at the Status Conference Debtor's proposed Plan (dkt. 55) and disclosure statement (dkt. 54).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 11/27/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 8/7/18:

Continue to 10/9/18 at 1:00 p.m., per the debtor's request (Status Report, dkt. 51). Appearances are not required on 8/7/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 6/26/18:

Continue to 8/7/18 at 1:00 p.m. Appearances are not required on 6/26/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

- (1) Current issues. This court has no issues to raise *sua sponte*.
 - (2) Deadlines/dates. This case was filed on 5/15/18.
 - (a) Bar date: 8/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: file by 8/21/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 6/26/18 at 1:00 p.m., to be concurrent with other hearings in this case. No status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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1:00 PM

2:17-15770 Steve O Chong and Edwina Theresa Chong

Chapter 11

#18.00 Cont'd Status Conference re: Post Confirmation
fr. 7/10/18, 9/18/18, 12/18/18

Docket 87

Tentative Ruling:

Tentative Ruling for 3/26/19:

Continue to 5/21/19 at 1:00 p.m. with a brief status report due 5/14/19, with the expectation that if a final decree is issued then the continued status conference will come off calendar. See status report (dkt. 115).

Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling 12/18/18:

Continue to 3/26/19 at 1:00 p.m. with a brief status report due 3/19/19, with the expectation that if a final decree is issued then the continued status conference will come off calendar. See status report (dkt. 113).

Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling 9/18/18

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CONT... Steve O Chong and Edwina Theresa Chong
Appearances required.

Chapter 11

At a hearing on 7/10/18 this Court orally ordered that (1) the debtor's disclosure statement was approved on a final basis (as reflected in the written order at dkt. 101), (2) the debtor's plan was confirmed, and (3) this post-confirmation Status Conference was set, with a written status report due no later than 9/4/18. No proposed written order has been lodged confirming the debtor's plan. Counsel for the debtor is directed to do so immediately. No written status report was filed. Counsel for the debtor is directed to address why not.

Assuming there are satisfactory responses to the foregoing issues, the tentative ruling is to continue this post-confirmation Status Conference to 12/18/18 at 1:00 p.m., with a written status report due 12/4/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Steve O Chong

Represented By
Lionel E Giron
Kevin Tang

Joint Debtor(s):

Edwina Theresa Chong

Represented By
Lionel E Giron
Kevin Tang

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2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Hrg re: Motion for order further extending
exclusivity under section 1121

Docket 759

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2,
3/26/19 at 2:00 p.m.)

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:18-12429 Dana Hollister

Chapter 11

#1.10 Hrg re: Emergency motion for order authorizing debtor to employ Appraisal Pros, d/b/a Charles Baker as a professional appraiser and to use cash collateral to pay Baker

Docket 780

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2, 3/26/19 at 2:00 p.m.)

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to further extend exclusivity period (dkt. 759) and Committee support (dkt. 775)

Grant, and extend the exclusive period for Debtor to file a plan through 9/3/19 and the exclusive period for Debtor to obtain acceptance of a plan through 11/3/19.

(b) Emergency motion to employ appraiser (dkt. 780)

Grant, at the hourly rates and with the retainer set forth in the motion (dkt. 780, p.16), subject to this Court's review under 11 U.S.C. 327 (not 328) and Judge Bason's other standard conditions (available at www.cacb.uscourts.gov), all subject to any oppositions at the hearing (per this Court's order shortening time, the "OST," dkt. 782, and the timely service thereof, dkt. 788).

Proposed orders: Debtor is directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/16/19 at 2:00 p.m., no status report required.

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CONT...

Dana Hollister

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Payment of professional fees

The parties are directed to address the issues regarding cash collateral and the payment of professional fees. See Status Report (dkt. 758), p.6:1-17.

(b) Debtor's use of funds without authority and/or Church/Bird responsiveness to requests for use of funds

The parties are directed to address Debtor's "cash management" issues. See Status Report (dkt. 758), pp.6:18-7:23.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/2/19 at 2:00 p.m. with a *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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Hearing Room 1545

2:00 PM

2:17-23714 Fargo Trucking Company, Inc.

Chapter 11

#3.00 Status Conference re: Post Confirmation
fr. 12/5/17, 02/13/18, 03/06/18, 5/1/18, 5/22/18,
5/29/18, 08/07/18, 9/21/18, 10/9/18, 12/4/18

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Continue to 7/30/19 at 2:00 p.m. with a brief status report due 7/23/19. See status report (dkt. 378). Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/4/18:

Appearances required. This Court has reviewed the Combined Chapter 11 Plan and Disclosure Statement (Dkt. 312) (the "Plan" and "Disclosure Statement"), the Driver Creditors' Objection to Payment of Administrative Claim to Robert Wallace (Dkt. 335) (the "Objection"), the Clarification of Chapter 11 Plan (Dkt. 342), the Ballot Summary (Dkt 352), the Brief in Support of Confirmation (Dkt. 353), and Debtor's Opposition to the Objection (Dkt. 354).

(1) Current issues

(a) Objection (Robert Wallace's Administrative Claim) (dkt. 335, 354)

The Driver Creditors object to the Plan's proposal to pay Mr. Wallace, the sole officer of the Debtor, an administrative claim in the total of \$97,766.90. Dkt. 335. The Driver Creditors object that \$10,000 per month compensation is not justified for a liquidating and non-operating business. The tentative ruling is to overrule that objection because (i) the Driver

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CONT... **Fargo Trucking Company, Inc.**

Chapter 11

Creditors did not object (until now, approximately one year later) to Debtor's Notice of Insider Compensation (the "Notice") detailing Mr. Wallace's compensation on November 17, 2017 (dkt. 354) (see LBR 2014-1(a)(3)) and (ii) Debtor's Opposition and Mr. Wallace's declaration (dkt. 354) adequately support the compensation.

(a) Plan and Disclosure Statement

Approve the disclosures in the Disclosure Statement on a final basis (11 U.S.C. 1125), and confirm the Plan (11 U.S.C. 1129(a)&(b)), for the reasons set forth in Debtor's Brief in Support of Confirmation. The plan proponents are directed to lodge a proposed order within seven days after this hearing, which should include a paragraph setting a post-confirmation status conference (on the date set forth below) and include language substantially in the form required by LBR 3020-1(b).

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: see above.

(c) Post-confirmation status conference: 2/26/19 at 1:00 p.m., with a status report (see LBR 3020-1(b)) due 2/12/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the Amended and Revised Settlement Agreement and Mutual and General Release Agreement (see dkt. 298).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/21/18:

Appearances required. This Court has reviewed the transcript that orally memorializes the principal parties' settlement. See Tr. 9/7/18 (dkt. 295), pp. 3:16-15:18 & 30:1-4 (the "Main Settlement"). The parties should be prepared to address the following issues.

(1) Settlement documentation. What documents are being prepared to implement the Main Settlement (e.g., the form of notice to the Truck Drivers, including their election whether to return the trucks and their agreement to mutual releases)? What is the status of that preparation? Will the notice to the Truck Drivers need to be in any languages other than English and Spanish? What steps can be taken before the documentation is finalized, and conversely what steps should wait until the documents are finalized?

(2) Secured/unsecured Truck Drivers. How do the parties propose to address what portion of the distributions from the bankruptcy estate should be allocated to the secured claims of certain Truck Drivers, and what remainder should be allocated to unsecured claims? Is that issue deferred until a proposed chapter 11 plan? If so, how will the possible effects of various secured claim amounts be adequately explained to the Truck Drivers who will be asked to consent to the Main Settlement? Conversely, if the parties have a proposed settlement as to the allowed dollar amount of these secured claims, what are the proposed terms of that additional settlement (the "Secured Driver Claims Settlement")?

(3) Procedures. What procedures should apply to the Main Settlement and any Secured Driver Claims Settlement (or litigation)? For example, is another Rule 9019 motion advisable (or necessary)? Should this Court find and conclude, under Rule 2002(a)(3), Fed. R. Bankr. P., that some sort of supplemental notice and opportunity to object (and overbid?) is sufficient, given that notice has already been provided of the basic issues and standards governing settlement? See dkt. 36 (settlement motion) and dkt. 122 (priorities/secured claims motion).

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Fargo Trucking Company, Inc.

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Whatever further procedures are required, should different sets of documents be provided to (a) the Truck Drivers (holding both secured and unsecured claims) and (b) other creditors (holding both secured and unsecured claims)? Should all creditors, including the Truck Drivers, receive a complete set of settlement documentation, or is that an undue expense? Is it sufficient for such documents to be available upon request? Should any cover letter/notice be translated, but not the underlying documentation (to save expense)?

(4) Calendaring. Is it appropriate (a) to continue the status conference and settlement motion (dkt. 19) for a relatively brief time, so that the parties can prepare the settlement documentation for review by this Court prior to mailing, and (b) take off calendar (without prejudice) all other matters that have been set for hearing today, including the overbid procedures motion (dkt. 149)?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/7/18:

Continue as stated below. No appearances required on 8/7/18.

(1) Current issues. This Court has reviewed the parties' joint status report (dkt. 262) and other relevant pleadings in this case.

(a) Bid Procedures Motion (dkt. 149). The tentative ruling is to defer ruling on this until after resolution of the discovery dispute and continue the hearing to a date and time to be set at the continued status conference set forth below.

(b) Motion to Approve Compromise (dkt. 36). The tentative ruling is to defer ruling on this until after resolution of the discovery dispute and continue the hearing to a date and time to be set at the continued status conference set forth below.

(c) Motion to Determine Extent & Priority of Truck Drivers' Liens (dkt.

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122). The tentative ruling is to defer ruling on this until after resolution of the motion to disqualify and continue the hearing to a date and time to be set at the continued status conference set forth below.

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 9/4/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 5/29/18:

Appearances required.

(1) Current issues.

(a) Debtor's Motion to Extend Time to Assume or Reject Lease (dkt. 139). Debtor seeks an extension of time to assume or reject its lease of commercial real property located at 2727 E. Del Amo Blvd., Rancho Dominguez, CA 90221 (the "Property") with Joe Murez Exempt Trust ("JMET" or "Landlord") through June 4, 2018. But in connection with Landlord's currently motion (dkt. 184, see discussion below), the debtor concedes that there are incurable defaults that prevent it from assuming the lease and states that it intends to vacate and surrender the Property by May 31, 2018 (dkt. 197, PDF p. 7, lines 17-19 & Wallace Declaration, paragraph 14). Additionally, on May 7, 2018, debtor served its subtenants with 30-day notices to terminate rental agreement with an expiration date of June 6, 2018 (*id.*, Ex. A).

In Landlord's motion (dkt. 184, see discussion below), it seeks

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possession of the Property effective as of June 5, 2018 and appears to have consented to an extension through that time (see dkt. 184, PDF p. 4, lines 26-27).

The tentative ruling is to grant the debtor's motion and extend the deadline to assume or reject the lease to May 31, 2018. The effects of that date on the subtenants and the Landlord are addressed below.

(b) Landlord's Motion for Administrative Claim and Possession of Property (dkt. 184).

(i) Base rent, late fees, interest, CAM, taxes, attorneys' fees and costs. Pursuant to 11 U.S.C. 365(d)(3), Landlord is entitled to an allowed administrative expense for the full amount of rent accrued during the period following the order for relief through the lease rejection, regardless of the actual value conferred by the lease upon the estate. *See Pacific-Atlantic Trading Company*, 27 F.3d 401 (9th Cir. 1994); *In re Cukierman*, 265 F.3d 846 (9th Cir. 2001). Section 365(d)(3) requires immediate payment of lease obligations so that the landlord is not left providing uncompensated services. *In re Cukierman*, 265 F.3d at 851-52.

In this case, Paragraph 4.1 of the Lease provides: "All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be Rent." Pursuant to paragraphs 1.5, 4.3, 10.2, 13.4, 13.5, and 31, Landlord is entitled to an allowed administrative expense for payment of base rent, late fees, interest, CAM, taxes, and attorneys' fees and costs. On the record before this Court, Landlord holds an estimated administrative expense in the amount of \$79,965.01 (\$48,626 (May rent) + \$4,862.20 (late fee) + \$11,661.31 (real property taxes) + \$14,815.5 (attorneys fees) = \$79,965.01). Landlord may supplement the record to establish a valid basis for any additional amounts it may be entitled to under the Lease (e.g., prorated June rent if the debtor has not turned over the premises as of 5/31/18).

(ii) No superpriority. Section 365(d)(3) does not authorize a superpriority over other administrative expenses. *In re LPM Corp.*, 300 F.3d 1134 (9th Cir. 2002). It is possible that the estate will be administratively insolvent (although the estate's assets and its administrative claims are largely moving targets until the conclusion of any bankruptcy case) so if Landlord had slept on its rights and were seeking prior months' rent it would not be entitled to payment at this time; but that is not the situation.

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Landlords are entitled to current payments. Other administrative claimants are not. There is no evidence that this Landlord has slept on its rights.

Reconciling the lack of priority with the entitlement to current payments, the tentative ruling is that Landlord is entitled to immediate payment of a *pro rata* share of funds that are available to pay estimated accrued administrative expenses to date. This is essentially the alternative relief requested by Landlord (see *dk. 200*, p.4:4-8).

Because the interim fee applications (discussed below) seek approximately \$305,000 in fees and expenses, and because Landlord's claim is approximately \$79,965.01, it appears that the rough total of accrued administrative expenses is approximately \$385,000, of which Landlord holds roughly \$80,000, or approximately 20% ($\$80,000/\$385,000 = 20.8\%$). Therefore, the tentative ruling is that Landlord is entitled to immediate payment of approximately 20% of the \$47,000 in unrestricted funds currently in debtor's possession (*dk. 197*, PDF p. 13, paragraph 13), or approximately \$9,400.

(iii) Landlord has not established that the funds are held in trust for it. This Court is not persuaded that the \$47,000 in funds debtor has on hand is being held in trust for Landlord. Landlord has not carried its burden of establishing that, under California law, an express trust exists that excepts these funds from estate property. See *Golden Mortg. Fund # 14 v. Kennedy*, 171 B.R. 79, 84 (9th Cir. BAP 1994) ("A creditor has the burden to prove that the funds in the debtor's possession should be held in trust for that creditor's benefit").

(iv) Surrender and Writ of Possession. Landlord has discretion whether to extend the time for the debtor to assume or reject the Lease beyond the statutory maximum, or permit occupancy after rejection, absent nonbankruptcy law that would permit occupants to continue in possession. As set forth above, the tentative ruling is that the lease will be deemed rejected on 5/31/18.

Because neither the subtenants nor any other party in interest has articulated a sufficient basis for the subtenants to continue to occupy the Property following rejection of the Lease, the tentative ruling is to grant Landlord's request for a writ of possession directing any subtenants to surrender and vacate the property effective 6/6/18. Landlord is instructed to review LBR 7064-1 and include the necessary language set forth in 7064-1(e)

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into the proposed order.

(v) Relief from stay. The tentative ruling is to grant Landlord relief from the automatic stay under 362(d)(1).

(vi) Waiver of 14-day stay. The tentative ruling is to waive the 14-day stay.

(c) Interim Fee Apps of Levene Neale Bender Yoo & Brill (dkt. 177); CohenReznick LLP (dkt. 178); and Haberbush & Associates LLP (dkt. 179), and related documents (dkt. 200, 214). The tentative ruling is to approve the applications on an interim basis, subject to final review and approval at the conclusion of the case, but deny the requests for immediate payment of fees and expenses given the debtor's limited funds on hand, except that Haberbush & Associates may draw down on its pre-petition retainer, subject to the possibility of disgorgement in future.

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/7/18 at 2:00 p.m., to be heard concurrently with the other matters set for hearing in this case. *Brief* status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/29/18:

This court anticipates posting a tentative ruling at a later time.

Revised Tentative Ruling for 5/22/18:

Appearances required.

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(1) Current issues.

(a) April MOR (dkt.192). On PDF p. 3, the debtor identifies a payment made to "Transport" on 4/26/18 in the amount of \$55,515.00 for "dispatch and brokerage svc." What is this payment for? Is it an "ordinary course" transaction?

(b) Motion to Disqualify Truck Driver Counsel (dkt. 125). This Court issued an order (dkt. 169, amended dkt. 175) continuing this motion and set (i) a 5/15/18 deadline for the Slattery Law Firm and Hirsch Law Firm to file supplemental papers addressing who properly represents the Truck Drivers; and (ii) a 5/21/18 at noon deadline to file any responses.

This Court has reviewed the relevant papers. See dkt. 125, 126 & 127 (motion papers), dkt. 143 (Hirsch opposition), dkt. 145 (Slattery opposition), dkt. 156, 157 (debtor's reply), dkt. 161 (Slattery decl.), dkt. 167 (Slattery Rule 2019 statements), dkt. 189 (debtor's authorities re attorney-client privilege as applied to retainer agreements), dkt. 199 (Hirsch supp. opposition), dkt. 201 (Slattery decl.), dkt. 202 (Hirsch supp. reply), dkt. 203 (Hirsch evid. obj. to Slattery decl.), dkt. 204 (Rivera|Shakleford opp. re S.H. Chung, R.M. Rubio, H.D. Alvarez & G. Perez Silva).

There is no tentative ruling, but the parties should be prepared to address the arguments set forth in the filed papers.

(c) Objection to Claim Nos. 11, 37, 38, 40, 44, 45, 50 (dkt. 108, 109, 111, 113, 115, 117, 119). The proofs of claim were filed by the Hirsch Law Firm and the claim objections/notices were served on the Hirsch Law Firm and Slattery Law Firm. However, based on the debtor's pending motion to disqualify both firms, the tentative ruling is to continue the hearings on these claim objections to **6/19/18 at 2:00 p.m.**, pending resolution of the motion to disqualify. At the continued hearings, the parties should be prepared to address whether it would be appropriate for this court to set continued oppositions deadlines.

Note: Counsel did not comply with Judge Bason's posted procedures (at www.cacb.uscourts.gov) requiring a cost/benefit analysis for any claim objection (although this court's own cost/benefit analysis appears to favor seeking to reclassify these claim). In future, counsel should comply with those posted procedures.

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- (2) Deadlines/dates. This case was filed on 11/6/17.
- (a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).
 - (b) Plan/Disclosure Statement*: TBD.
 - (c) Continued status conference: 5/29/18 at 2:00 p.m., to be heard concurrently with the other matters set for hearing in this case. No status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/22/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 5/1/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 3/6/18:

Appearances required.

(1) Current issues.

(a) Motion to Approve Compromise (dkt. 36). The parties should be prepared to address the status of any settlement negotiations with respect to the pending motion to approve compromise.

(b) Status Report. At the last status conference on 2/13/18, this court directed the debtor to file a brief status report by 2/27/18. As of the preparation of this tentative ruling, the debtor has not complied. The debtor should be prepared to address why it failed to comply with this court's order.

(c) Employment application: Creditors' Committee Counsel (dkt. 47, 65). The objection by certain truck drivers (dkt. 63) has been withdrawn (dkt.

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89). The debtor's limited objection (dkt. 55) and the reply papers (dkt. 85, 86) raise issues that are best addressed in connection with any application for compensation, at which time this Court can evaluate whether the hourly billing rates are commensurate with the nature of the work performed, the time spent on each task, and the other factors under 11 U.S.C. 330. Therefore the tentative ruling is to overrule the objection and authorize the employment.

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/1/18 at 1:00 p.m., *brief* status report due 4/17/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues.

The parties should be prepared to address (a) whether the Court should order mandatory mediation of the proposed settlement, proposed assignment of the lease, and related issues; (b) whether concurrently this Court should set deadlines such as a discovery cutoff or, conversely, whether this Court should temporarily issue a stay of some litigation; and (c) whether the parties would prefer that this Court provide some tentative rulings or preliminary thoughts on various issues, or if instead it would foster possible settlement or serve other beneficial goals for this Court not to do those things at this stage of the case.

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(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/1/18 at 1:00 p.m., *brief* status report due 4/17/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/5/17:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

n/a

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 2/15/18 (DO NOT SERVE notice yet - *court will prepare an order after the status conference*).

(b) Plan/Disclosure Statement*: This court will discuss setting a deadline for the filing of a draft plan/disclosure statement at the status conference.

(c) Continued status conference: 2/13/18 at 1:00 p.m., *brief* status report due 1/30/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Fargo Trucking Company, Inc.

Represented By

Vanessa M Haberbush

David R Haberbush

Lane K Bogard

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2:13-26483 Saeed Cohen

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#4.00 Cont'd Status Conference re: Post Confirmation
fr. 5/23/17, 8/8/17, 9/12/17, 12/12/17, 1/9/18,
4/10/18, 4/17/18, 07/17/18, 11/20/18, 12/11/18,
03/12/19

Docket 0

Tentative Ruling:

Tentative Ruling for 3/26/19:

This Court has reviewed the debtor's filed status report (dkt. 1520). The parties should be prepared to address at the continued status conference whether adversary proceeding no. 2:14-ap-01609-NB (*S. Cohen v. United States et al.*) requires (1) an order approving the stipulation between Mr. Cohen and the United States and (2) any other proceedings, or if that adversary proceeding can be closed. The tentative ruling is to continue this status conference to 8/6/19 at 2:00 p.m., with a *brief* status report due 7/23/19. Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

This Court has reviewed the debtor's filed status report (dkt. 1517) and has no issues to raise sua sponte. The tentative ruling is to continue this status conference to 3/12/19 at 2:00 p.m., with a *brief* status report due 2/26/19. Appearances are not required on 12/11/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

This Court has reviewed the debtor's filed status report (dkt. 1511) and has no issues to raise sua sponte. The tentative ruling is to continue this status conference to 11/20/18 at 2:00 p.m., with a *brief* status report due 11/6/18. Appearances are not required on 7/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

(a) Grant the motion to clarify issues regarding class 8 claims (dkt. 1489) as amended by the supplement (dkt. 1496), (b) issue an order substantially in the form attached as an exhibit to that supplement (the debtor is directed to lodge that proposed order within 7 days after this hearing), and (c) set a continued post-confirmation status conference for 7/17/18 at 2:00 p.m., with a brief status report due 7/6/18. Appearances are not required on 4/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

Saeed Cohen

Represented By

Ron Bender

Krikor J Meshefejian

Kurt Ramlo

Beth Ann R Young

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2:18-15829 Philip James Layfield

Chapter 7

#5.00 Cont'd hrg re: Motion for Order Compelling Debtor to Appear at Continued § 341(a) Examination and for Order Authorizing Trustee to File Affidavit for Order Pursuant to Federal Rule of Bankruptcy Procedure 2005 fr. 2/26/19

Docket 186

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address whether Debtor appeared at the meeting of creditors, and any remaining issues regarding this motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Grant the motion insofar as directing Debtor to attend the meeting of creditors, either (i) in person on 3/6/19 at 10:00 a.m. or (ii) through a video appearance, at Debtor's expense and using technology and a time and place reasonably satisfactory to the Chapter 7 Trustee, and (iii) continue this hearing to 3/26/19 at 2:00 p.m. to address possible remedies if Debtor fails to appear, including whether to issue an order requesting and directing the United States Marshal or his designee to detain Debtor and compel his attendance. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov,

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"Judges," "Bason, N.", "Instructions/Procedures").

(1) Notice of the section 341(a) meeting of the creditors

Debtor asserts (dkt. 191, pp.4-5) that he did not receive proper notice of his obligation to attend the meeting of creditors (11 U.S.C. 341(a)) that originally was set for 1/17/19. First, Debtor does not appear to dispute that he had actual knowledge of the scheduled meeting, and he is charged with knowledge of the law establishing his duty to attend. See 11 U.S.C. 343. Second, as the Trustee's reply clarifies (dkt. 194), the Trustee is not seeking any remedy for Debtor's non-appearance at the initial meeting, but is seeking to address Debtor's preemptive assertion that he need not attend the continued meeting.

(2) Anticipated invocation of the 5th Amendment

Debtor asserts that "the Fifth Amendment will be broadly asserted at the 341 meeting." Dkt. 171, p.5:7-9. But, as explained in the Trustee's reply (dkt. 194), Mr. Layfield cannot assert a generalized right to invoke the 5th Amendment. He must appear and respond to the questions presented.

(3) Alleged expense or inconvenience of attending the continued section 341(a) meeting

Debtor requests (through his criminal attorney who seeks to appear specially) that the Trustee's motion be denied because he resides in Delaware (dkt. 191, p.3:28) and because his lawyer states that Debtor is indigent (dkt. 191, p.7, para. 7). There is no admissible evidence presented with the opposition. Nevertheless, this Court takes judicial notice that, on other occasions, Debtor himself has asserted that he lives in Delaware and that travelling to California would be costly in terms of time and money.

The parties are directed to address whether Skype or some other video service, or combination of audio and video, can be used to create a recordable record of the meeting (as contemplated at the start of this tentative ruling).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Philip James Layfield

Pro Se

Movant(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

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2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:18-01315 Layfield v. Pachulski et al

- #6.00** Cont'd status Conference Re: Complaint for (1) Declaratory Relief;
(2) Breach of the Covenant of Good Faith and Fair Dealing;
(3) Interference with Contractual Relations; (4) Intentional
Interference with Prospective Economic Advantage; and
(5) Negligence
fr. 12/18/18

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Dismiss this adversary with prejudice because Mr. Layfield lacks standing.
See Tentative Ruling for 12/18/18 (reproduced below). Appearances are not required.

Proposed order: Defendant Richard M. Pachulski, the Chapter 11 Trustee in this case, is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling (including the Tentative Ruling for 12/18/18), thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Continue to 3/26/19 at 2:00 p.m. Appearances are not required on 12/18/18.

Reasons:

The plaintiff, Philip James Layfield, lacks standing, as recognized in

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the stipulation (adv. dkt. 3) between (a) Wesley Avery, the Chapter 7 Trustee in the individual (involuntary) bankruptcy case of Mr. Layfield, and (b) defendant Richard M. Pachulski, the Chapter 11 Trustee in the bankruptcy case of Layfield & Barrett, APC. See adv. dkt. 3, Recital "K," and adv. dkt. 4 (order approving stipulation). Although Mr. Layfield has filed papers requesting dismissal of his bankruptcy case, and numerous other things, this Court has denied his requests.

Meanwhile, all deadlines including the time to file any answer or other pleading have been extended indefinitely as to two other defendants, US Claims Opco, LLC ("USCO") and DRB Capital ("DRB"), by stipulation (adv. dkt. 13) and order thereon (adv. dkt. 15). The last defendant, Advanced Legal Capital, LLC ("Advanced") has filed an answer (adv. dkt. 5) that includes a prayer for a judgment of dismissal, an award of its attorney fees and costs, and sanctions and other remedies.

In view of possible appeals by Mr. Layfield, or any other avenues by which he may attempt to gain standing, it appears to be premature for this Court to hold any Status Conference in this adversary proceeding at this time. In addition, both because Mr. Layfield may not have exhausted his remedies, and because sanctions usually must be sought by separate motion (*see, e.g.*, Rule 9011(c)(1)(A), Fed. R. Bankr. P.), it appears premature to address any sanctions issues at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC	Pro Se
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Defendant(s):

Richard M. Pachulski	Pro Se
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Advanced Legal Capital, LLC	Pro Se
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CONT... Layfield & Barrett, APC

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US Claims Opco, LLC Pro Se

DRB Capital, LLC Pro Se

Plaintiff(s):

Philip James Layfield Pro Se

Trustee(s):

Richard Pachulski (TR) Represented By
Malhar S Pagay
James KT Hunter

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#7.00 Hrg re: Motion For Issuance Of Order To Show Cause Why Debtors Should Not Be Ordered To Comply With The Terms Of Their Second Amended Plan And Held In Contempt For Obstructing The Sale Of Their Japanese Residence And Failure To Transfer All Funds In Their Japanese Bank Account(S) To A U.S.-Based Debtor Account

Docket 384

Tentative Ruling:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#8.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Appearances Required

(1) Current Issues

(a) Order to Show Cause ("OSC," dkt. 386)

The parties should be prepared to address the issues raised by the OSC (dkt. 386), the motion for the OSC (dkt. 384), the status report (dkt. 390), the declaration of the Sakurais' counsel Mr. Gebelt (dkt. 391), and the reply of the Fresco Parties (dkt. 392).

2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 4/30/19 at 2:00 p.m. (status report due 4/23/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 1/15/19:

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Appearances Required

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(1) Current Issues

(a) Final Fee Application for Debtor's Counsel (*Checkmate*, dkt. 249, 250, 253, 255, 257, 258, 261, 264; and *Sakurai*, dkt. 343, 346, 352, 355, 356, 363, 367)

The applications seek \$350,846.10 (*Checkmate*) and \$118,796.75 (*Sakurai*). This Court has allowed a total of \$300,000, and set this continued hearing to address the balance of \$169,642.85. See Interim Fee Orders (dkt. 261, *Checkmate*; dkt. 363, *Sakurai*).

The Fresco parties' objections note that this Court has on more than one occasion expressed grave concerns about whether these Debtors have adequately prosecuted these bankruptcy cases. Of course, this Court expects that counsel for the debtors would not in any way have participated in any attempts by these Debtors to mislead or obstruct creditors in these cases, but that is not the end of the inquiry.

On the one hand, when there are legitimate strategic or tactical reasons to chose among different courses of action, counsel for Debtors usually must act at their clients' direction, even if they might harbor some doubts about the efficacy of those choices. On the other hand, in addition to the ethical limits of what counsel may do at their clients' direction, counsel are only permitted "reasonable compensation for actual, necessary services" (11 U.S.C. 330(a)(1)(A) (emphasis added)), and in determining what compensation is reasonable this Court "shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including [among other things] whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, [these bankruptcy cases]."

In these cases there are open questions about (i) Debtors' own acts and omissions, and whether Debtors were or were not engaging in a lack of diligent prosecution of these cases or other misconduct, (ii) whether Debtors, if deposed or examined at trial on those issues, will or will not assert advice of counsel, and (iii) whether, regardless of the foregoing issues, counsel for Debtors can satisfy the above-referenced statutory requirements. For all of these reasons, the tentative ruling is that the Fresco parties must have a reasonable period of time in which to conduct discovery to investigate Debtors' apparent failures to prosecute these cases or other misconduct, and

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whether, in view of the results of any such discovery, the compensation sought by counsel for Debtors is for "necessary" services and is "reasonable" in dollar amount, given all of the facts and circumstances.

Meanwhile, although this Court recognizes that all interim compensation may be revisited in connection with any final award, the question is how much to award on an interim basis, and whether any disbursed funds must be held in trust. The tentative ruling is to award another \$35,000 to counsel for Debtors, to be allocated pro rata in proportion to their outstanding fee requests, without requiring any portion of those funds to be held in trust, but also without prejudice to allowance of a greater or lesser final award.

The parties should be prepared to address the schedule for discovery on the issues outlined above. The tentative ruling is that a five month period is appropriate.

Then, in connection with any final fee award, or at such other time as this Court may later determine, the Fresco parties' objections can be revisited with the benefit of both (i) any discovery and (ii) any subsequent developments. For example, any additional disclosures and/or recoveries in the Fower/Radiology litigation might shed light on whether Debtors' and their counsel's strategies and tactics in dealing with those parties were appropriate at the time they were made. (This Court emphasizes that any subsequent developments would be relevant only to the extent they shed light on what was reasonable at the time the legal services were rendered - not for purposes of "20/20 hindsight.")

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 3/26/19 at 2:00 p.m. (status report due 3/19/19).

*Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Rulings for 10/26/17 through 1/8/19:

[OMITTED FOR BREVITY]

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22648 Checkmate King Co., LTD and Radiology Solutions Corp.

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#9.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

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Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and

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the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.

(c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

Appearances required.

(1) Current issues.

(a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

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(b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report

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required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

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(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used

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medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot

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the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on a final basis.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

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(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

2:00 PM

2:17-22648 Checkmate King Co., LTD

Chapter 11

Adv#: 2:18-01062 Checkmate King Co., LTD v. Radiology Solutions Corp. et al

- #11.00** Cont'd Status Conference re: Complaint for (1) Breach of Contract; (2) Claim and Delivery; (3) Conversion; (4) Breach of Guaranty; (5) Fraud; (6) Preliminary Injunction; and (7) Constructive Trust fr. 5/8/18, 6/12/18, 6/19/18, 07/10/18, 08/14/18, 9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 3/26/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

2:00 PM

CONT... Checkmate King Co., LTD

Chapter 11

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18 (same as for 6/19/18):

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 2, 7/10/18 at 2:00 p.m.).

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current Issues.

(a) Joint Status Report and Notice of Continuances. This Court's 5/8/18 tentative ruling (see below) was not opposed, so it became this Court's actual ruling.

This Court directed (i) Checkmate to file and serve a notice of continuances attaching and incorporating by reference the deadlines in that tentative ruling by 5/7/18, and (ii) the parties to file a brief joint status report by 5/29/18. As of the preparation of this tentative ruling, none of the parties have complied. The parties are cautioned that failure to abide by applicable deadlines in future may result in adverse consequences.

(b) Motion for TRO & Claim and Delivery (adv. dkt. 10).

Plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") has filed a stipulation (adv. dkt. 30) with defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") for turnover of equipment. But Checkmate has not provided any evidence that it has relief from the automatic stay and consent of the Chapter 7 Trustee in the RS and Fower bankruptcy cases for such turnover (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA). The tentative ruling is to set a deadline of 6/19/18 for Checkmate to file a declaration attaching evidence sufficient to establish those things, and lodge a revised proposed order to approve the stipulation.

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Central District of California
Los Angeles
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2:00 PM

CONT... **Checkmate King Co., LTD**

Chapter 11

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time. Continue to 7/17/18 at 2:00 p.m., *brief* joint status report due 7/3/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

The tentative ruling is to continue all pending matters in this adversary proceeding to 6/12/18 at 2:00 p.m. for the reason stated below, with a brief joint status report due 5/29/18, and with a deadline of 5/7/18 for the plaintiff to file and serve a notice of continuances attaching and incorporating by reference the deadlines in this tentative ruling (assuming that this Court is not persuaded to depart from this tentative ruling). Appearances are not required on 5/8/18.

(1) Current Issues. This Court has reviewed the parties' status reports (adv. dkt. 24 & 26) and the other filed documents and records in this adversary proceeding.

(a) Motion for TRO & Claim and Delivery (adv. dkt. 10). At the 4/9/18 hearing on this motion, counsel for plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") apprised this Court of the bankruptcy filings of defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA) and requested a continuance of this hearing to allow time to obtain orders granting relief from stay with annulment. In the Joint status report (adv. dkt. 24), Checkmate states that the hearings on the relief from stay motions are scheduled for 5/15/18. Accordingly, the tentative ruling is to continue this motion to the date and time set forth at the start of this tentative ruling.

(b) Siemens Motion to Dismiss (adv. dkt. 27, the "MTD"). Defendant

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Central District of California
Los Angeles
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Tuesday, March 26, 2019

Hearing Room 1545

2:00 PM

CONT... **Checkmate King Co., LTD**

Chapter 11

Siemens Medical Solutions USA, Inc. ("Siemens") has properly self-calendared its MTD for 6/12/18 at 11:00 a.m. Siemens anticipates that it may be voluntarily dismissed by plaintiff (see adv. dkt. 24), but if that does not occur then this Court anticipates that the MTD may take 15 minutes or more to hear. This Court's practice is that matters anticipated to take 15 minutes or more are heard on the 2:00 p.m. calendar (not available for self-calendaring, except by permission of this Court). Therefore the tentative ruling is to re-calendar the MTD from 11:00 a.m. to 2:00 p.m., which is concurrent with the other matters in this adversary proceeding that are on today's calendar.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

Defendant(s):

Radiology Solutions Corp.

Represented By
Vatche Chorbajian

George Tyler Fower

Represented By
Vatche Chorbajian

Siemens Medical Solutions USA Inc

Represented By
Marsha A Houston

Plaintiff(s):

Checkmate King Co., LTD

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

2:00 PM

CONT...

Checkmate King Co., LTD

Robert M Aronson

Chapter 11

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

2:00 PM

2:13-25508 Luis Alfonso Duran and Alejandra Janeth Campos

Chapter 13

#12.00 Hrg re: Motion for Summary Adjudication of Issue of Whether Debtors May, in a Re-opened Case, Avoid a Junior Lien Where the Creditor at Issue Had No Actual Notice of the Case Filing and Is Prejudiced by the Delay in Seeking Avoidance and Where There Was Equity for Junior Lien

Docket 110

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Luis Alfonso Duran

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Joint Debtor(s):

Alejandra Janeth Campos

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

2:00 PM

2:13-25508 Luis Alfonso Duran and Alejandra Janeth Campos

Chapter 13

#13.00 Hrg re: Motion to strike creditor and junior lien holder, Delphi Financial Corporation's motion for summary adjudication of whether debtors may, in a re-opened case, avoid a junior lien where the creditor at issue had no actual notice of the case filing and is prejudiced by the delay in seeking avoidance and where there was equity for junior lien

Docket 115

Tentative Ruling:

Please see the tentative ruling for the related motion at calendar no. 12 (3/26/19 at 2:00 p.m.).

Party Information

Debtor(s):

Luis Alfonso Duran

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Joint Debtor(s):

Alejandra Janeth Campos

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, March 26, 2019

Hearing Room 1545

2:00 PM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#14.00 ***[Judge Robles case....this hearing is being heard by Judge Bason]***

Hrg re: Stipulation to modify the automatic stay for the limited purpose of sending notice and deadline to object

Docket 1550

Tentative Ruling:

Grant the motion, approve the stipulation, and overrule the opposition (dkt. 1672, 1690) for the reasons set forth in the motion and reply papers (dkt. 1550, 1551, 1768), and because of the non-opposition of the Committee (dkt. 1671). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, March 28, 2019

Hearing Room 1545

9:00 AM

2:18-12286 Kevin James Quinn

Chapter 7

Adv#: 2:18-01158 Duff v. Quinn

#1.00 Trial re: Complaint for Objecting to Debtor's
Discharge Pursuant to Section 727 of the Bankruptcy Code
fr. 08/07/18, 11/27/18, 2/5/19

Docket 1

***** VACATED *** REASON: Cont'd to 6/6/19 at 9:00 a.m. per stipulation
(adv. dkt. 19) and order thereon.**

Party Information

Debtor(s):

Kevin James Quinn

Represented By
John F Wolcott

Defendant(s):

Kevin James Quinn

Pro Se

Plaintiff(s):

James T Duff

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, March 29, 2019

Hearing Room 1545

2:30 PM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Hrg re: Emergency Motion for Order Authorizing Debtor to
Enter Into Post-Petition Insurance Premium Financing Agreement

Docket 791

Tentative Ruling:

Grant, subject to any opposition at the hearing, and subject to addressing (1) why an application for an order shortening time was not filed; (2) why this matter was left until such a late date; and (3) whether, if notice could have been provided sooner, Debtor's attorney fees should be reduced for unnecessary work. See OST (dkt. 792). Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:15-23009 Terry Tramble

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON TRUST, NATIONAL ASSOCIATION
vs
DEBTOR

Docket 33

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Terry Tramble

Chapter 13

Party Information

Debtor(s):

Terry Tramble

Represented By
John M Boyko

Movant(s):

WILMINGTON TRUST,

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:17-15342 Daniel Elliott Trabulus

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

US BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 36

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Daniel Elliott Trabulus

Represented By
Leon D Bayer

Movant(s):

US Bank National Association, not

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:17-22668 Lawrence K Burkley

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

NATIONS DIRECT MORTGAGE, LLC
vs
DEBTOR

Docket 37

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lawrence K Burkley

Represented By
Donna R Dishbak

Movant(s):

Nations Direct Mortgage, LLC

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:18-20274 Brian Michael Walper and Natalie Renee Walper

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

BROKER SOLUTIONS, INC.
vs
DEBTOR

Docket 32

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Brian Michael Walper

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Natalie Renee Walper

Represented By
Ramiro Flores Munoz

Movant(s):

Broker Solutions, Inc. dba New

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:18-23206 Almeta L Powell

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

WEST COAST SERVICING INC.
vs
DEBTOR

Docket 36

Tentative Ruling:

Grant, based on the motion papers, Debtor's response (dkt. 57, 59), and movant's reply and opposition to Debtor's motion to commence the LMM program (dkt. 60, 61). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
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Los Angeles
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Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Almeta L Powell

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Almeta L Powell

Represented By
David Samuel Shevitz

Movant(s):

West Coast Servicing Inc.

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:18-24903 Evelio Bonilla

Chapter 7

#6.00 [CASE DISMISSED ON 03/28/2019]

Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST
vs
DEBTOR

Docket 27

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Evelio Bonilla

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Evelio Bonilla

Pro Se

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:19-10153 Christian Rossil

Chapter 11

#7.00 Hrg re: Motion for relief from stay [RP]

LAURA Z. NALVARTE MORENO
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Christian Rossil

Chapter 11

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Laura Z. Nalvarte Moreno

Represented By
Michael F Chekian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:19-11129 Sergio G Vasquez

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

REVERSE MORTGAGE FUNDING, LLC
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Sergio G Vasquez

Chapter 13

Party Information

Debtor(s):

Sergio G Vasquez

Pro Se

Movant(s):

Reverse Mortgage Funding, LLC

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:19-11129 Sergio G Vasquez

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 20

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT...

Sergio G Vasquez

Chapter 13

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leaffy*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Sergio G Vasquez

Chapter 13

Debtor(s):

Sergio G Vasquez

Pro Se

Movant(s):

Wells Fargo Bank, NA, as Trustee,

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:19-12084 Ramon Lopez

Chapter 13

#10.00 ***[CASE DISMISSED ON 03/18/19]***

Hrg re: Motion for relief from stay [RP]

CHAMPERY RENTAL REO, LLC
vs
DEBTOR

Docket 11

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding future bankruptcy cases.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT...

Ramon Lopez

Chapter 13

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafty*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Ramon Lopez

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ramon Lopez

Pro Se

Movant(s):

Champery Rental REO, LLC

Represented By
Amelia B. Valenzuela

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:19-12644 Melissa Ortega

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

CAROLINE KILLEEN
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(4) and (j): there is no automatic stay because (a) Debtor's first case (#2:18-bk-24420) was dismissed (on 1/2/19) within one year before this case was filed (on 3/12/19), (b) Debtor's second case (#2:19-bk-11198) was dismissed (on 2/5/19) within one year before this case was filed (on 3/12/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... **Melissa Ortega**

Chapter 13

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Melissa Ortega

Chapter 13

Party Information

Debtor(s):

Melissa Ortega

Pro Se

Movant(s):

Caroline Killeen

Represented By
Caroline Djang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:18-24104 Sharon Whitaker

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

FLAGSHIP CREDIT ACCEPTANCE LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Sharon Whitaker

Chapter 13

Party Information

Debtor(s):

Sharon Whitaker

Represented By
Erika Luna

Movant(s):

Flagship Credit Acceptance LLC

Represented By
Michael D Vanlochem

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:18-23374 Mark Edward Fitzpatrick and Cheri Suzanne Karbum

Chapter 13

#13.00 Hrg re: Motion for relief from stay [PP]

KINECTA FEDERAL CREDIT UNION
vs
DEBTOR

Docket 22

***** VACATED *** REASON: Withdrawal of Motion Filed on 03/12/2019
(Dkt. 43)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Edward Fitzpatrick

Represented By
Roland H Kedikian

Joint Debtor(s):

Cheri Suzanne Karbum

Represented By
Roland H Kedikian

Movant(s):

Kinecta Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:19-11232 Nicolas A Enamorado Cruz

Chapter 7

#14.00 Hrg re: Motion for relief from stay [UD]

IHOME INVESTMENTS, LLC
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding *future* bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because the Movant does not allege sufficient evidence to grant *in rem* relief.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

**United States Bankruptcy Court
Central District of California
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10:00 AM

CONT... Nicolas A Enamorado Cruz Chapter 7

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Nicolas A Enamorado Cruz

Represented By
Freddie V Vega

Movant(s):

IHome Investments, LLC

Represented By
Steven L Sugars

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:19-11151 Finis Lawrence Adams

Chapter 13

#15.00 Hrg re: Motion in Individual Case for Order Confirming Termination of Stay under 11 U.S.C. 362(j) or That No Stay is in Effect under 11 U.S.C. 362(c)(4)(A)(ii)

Docket 18

Tentative Ruling:

Grant U.S. Bank's motion for an order confirming that no stay is in effect.
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finis Lawrence Adams

Pro Se

Movant(s):

U.S. BANK NATIONAL

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

2:19-10811 Winonia Strickland Myles

Chapter 13

#16.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 30

Tentative Ruling:

(1) Deny Debtor's motion with prejudice, and without attorney fees to Debtor's attorney for (a) any work on this motion or (b) any other work that would have been unnecessary if a timely motion under 11 U.S.C. 362(c)(3) had been filed; (2) deny the request of Bayview Loan Servicing, LLC ("Bayview") for attorney fees and costs without prejudice, and (3) grant Bayview's request for an order confirming that the automatic stay is no longer in effect as to both Debtor and the estate. Appearances required to address whether the case should be dismissed (see Judge Bason's Procedures, posted at www.cacb.uscourts.gov, then search for "362(c)(3)").

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling.

Reasons:

(1) Denial of the motion, based on analysis of Debtor's motion (dkt. 30), Bayview's opposition (dkt. 33), and Debtor's reply (dkt. 34)

(a) Relief is unavailable on Debtor's motion as a matter of law

As set forth in this Court's Order Deny Application for Order Setting Hearing on Shortened Notice (dkt. 29), and as Bayview reiterates (dkt. 33), the motion was not timely set for hearing in accordance with 11 U.S.C. 362(c)(3)(B) ("on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30 day period [after the petition date, *i.e.*, 1/26/19 + 30 days]." (emphasis added)). The motion was not filed until 3/12/19, so it could not be heard within this 30-day period.

Not only is Debtor time-barred from seeking to "continue" the

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10:00 AM

CONT... Winonia Strickland Myles

Chapter 13

automatic stay under paragraph "(3)" of section 362(c), she also is ineligible to seek to "impose" the automatic stay under paragraph "(4)" for two reasons. First, that paragraph only applies if "2 or more ... cases of the debtor were pending within the previous year" and were dismissed (emphasis added), and Debtor only alleges one such case. Second, any motion under paragraph "(4)" must be filed "within 30 days after" the petition date and, again, Debtor did not file the present motion until 3/12/19.

Debtor does not dispute any of this. Instead she argues instead that this Court can "impose" a stay under this Court's residual powers in 11 U.S.C. 105(a). That argument is not persuasive.

First, the general provisions of section 105 cannot supersede the more specific provisions of section 362(c), which delineate when the stay can and cannot be extended or imposed. See *Law v. Siegel*, 134 S.Ct. 1188, 1194 (2014) ("§ 105(a) does not allow the bankruptcy court to override explicit mandates of other sections of the Bankruptcy Code") (citation and internal quotation marks omitted).

Second, even if section 362(c) could be read as something other than Congress' explicit mandate (which it cannot be), section 105 is not a "roving commission to do equity." *In re Saxman*, 325 F.3d 1168, 1174-75 (9th Cir. 2003) (citations omitted).

Third, Rule 7001(7) (Fed. R. Bankr. P.) requires an adversary proceeding to obtain an injunction such as a stay. Compare e.g., *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007) (injunctive relief available (i) in adversary proceeding, (ii) not involving automatic stay in section 362(c)(3) or (4) or other explicit provisions of Bankruptcy Code, and (iii) only if Debtor establishes (A) reasonable likelihood of successful reorganization, (B) possibility of irreparable injury if preliminary relief is not granted, (C) balance of hardships favoring Debtor, and (D) advancement of the public interest, if applicable).

(b) Alternatively, even if this Court had discretion to impose a stay in sufficiently extreme circumstances, Debtor's evidence is inadequate

Even if this Court had equitable discretion, the tentative ruling is that Debtor's excuse is insufficient. Debtor asserts (dkt. 30 at PDF p.11) that "due to severe illness and hospitalization the Debtor was unable to execute [the section 362(c)(3) motion] within 30 days of the Order of Relief [sic]" There is no evidentiary support for this assertion.

In addition, that assertion is also too vague. Debtor herself did not

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CONT... **Winonia Strickland Myles**

Chapter 13

need to execute the motion, so does Debtor's attorney mean that he himself was too ill to prepare, execute, and file the local form?

Nor are there any details about the nature of the illness; or when the hospitalization began; or why those things were so debilitating that it was impossible to prepare the simple form motion under 11 U.S.C. 362(c)(3). Nor does Debtor's counsel, who represented her in her prior case (Case No. 2:17-bk-17965-VZ), explain how he could prepare all the case commencement documents (the petition and other forms) and yet could not prepare this simple local form motion at the same time.

For these alternative reasons, the tentative ruling is that the motion must be denied.

(c) No attorney fees charged by Debtor's counsel to Debtor or estate

This Court presumes that counsel for the debtor will not charge any fees to Debtor, the bankruptcy estate, or anyone else for the time spent in connection with this motion, on the application for an OST, or in preparing any subsequent bankruptcy petition papers (if this case is dismissed) and any motion (in such a subsequent case) to continue or impose the automatic stay. This Court makes that presumption because if Debtor's counsel had timely prepared, filed, and served a simple motion under paragraph "(3)," none of these other tasks would have been necessary. If counsel intends to charge any fees then he must follow the procedures to dispute this tentative ruling.

(2) Bayview's request for attorney's fees

At the end of its opposition (dkt. 33) Bayview requests attorney fees and costs. Bayview cites no authority for any such award.

A request for attorney's fees pursuant to Rule 9011(c)(1)(A) (Fed. R. Bankr. P.) must be made by separate motion. No such separate motion was filed, so this Court lacks authority to award any fees under Rule 9011 based on Bayview's request.

In order to be awarded attorney's fees pursuant to this Court's inherent power, Bayview must show "by clear and convincing evidence that the contemnors violated a specific and definite order of the court." *In re Taggart*, 888 F.3d 438, 443 (9th Cir. 2018), *cert. granted* 2019 WL 98543. This Court also would need to make a finding of bad faith or willful misconduct. *See In re Lehtinen*, 564 F.3d 1052, 1061 (9th Cir. 2009), *abrogated on other grounds, as stated in In re Gugliuzza*, 852 F.3d 884, 898 (9th Cir. 2017); *In re*

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10:00 AM

CONT... **Winonia Strickland Myles**

Chapter 13

DeVille, 280 B.R. 483, 495 (9th Cir. BAP 2002) (*quoting Chambers v. NASCO, Inc.*, 501 U.S. 32, 45-6 (1991)) ("To impose inherent power sanctions, a court must find that a party acted 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'"), *aff'd*, 361 F.3d 539 (9th Cir. 2004). On the present record, this Court is not prepared to make such findings of fact and conclusions of law.

Lastly, in order to be granted attorney's fees pursuant to section 105(a), Bayview would have to show by clear and convincing evidence that the contemnors violated a specific and definite order of the court. *See In re Dyer*, 322 F.3d 1178, 1190 (9th Cir. 2003); *In re Lehtinen*, 564 F.3d 1052, 1058 (9th Cir. 2009); *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999). Bayview has not met it's burden to establish those things.

Accordingly, the tentative ruling is to deny Bayview's request for attorney fees.

(3) The automatic stay is no longer in effect as to both Debtor and the estate

At the end of Bayview's opposition (dkt. 33) it also requests that this Court issue an order confirming that the automatic stay is no longer in effect as to both Debtor and the estate. The tentative ruling is to grant such relief. *See* 11 U.S.C. 362(j); *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011); *In re Hernandez*, case no. 2:11-bk-53730-NB, docket #40 (Memorandum Decision).

(4) Dismissal of this case, or not?

As stated in the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov):

Judge Bason recognizes that termination of the automatic stay may harm creditors, or otherwise undermine important bankruptcy policies, and therefore one of two remedies may be appropriate: (1) if it appears that a plan can be confirmed before irreparable harm occurs, then the binding effect of the plan might be a sufficient substitute for the lack of an automatic stay (*see* § 1327(a)), or alternatively (2) the court can dismiss the bankruptcy case on its own motion and (generally) without a bar to filing another bankruptcy case. *See Hernandez* (2:11-bk-53730-NB, dkt. 40) pp. 8:4-10:16.

The parties are directed to address these issues.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 2, 2019

Hearing Room 1545

10:00 AM

CONT... Winonia Strickland Myles

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Winonia Strickland Myles

Represented By
George J Paukert

Movant(s):

Winonia Strickland Myles

Represented By
George J Paukert

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

2:18-11171 Main Source Group, Inc.

Chapter 7

#1.00 Hrg re: Chapter 7 Trustee's motion to dismiss case

Docket 21

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Main Source Group, Inc.

Represented By
Kelly K Chang

Movant(s):

Carolyn A Dye (TR)

Pro Se

Trustee(s):

Carolyn A Dye (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

#2.00 Hrg re: Motion to dismiss Attitude Marketing Inc. - (Case# 2:19-bk-10552-NB)

Docket 307

*** VACATED *** REASON: Cont. to 4/9/19 at 11 a.m. per stipulation
(dkt. 316) and order thereon.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Movant(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

2:18-23373 Kenneth D. Castillo and Lisbeth M. Castillo

Chapter 7

#3.00 Hrg re: United States Trustee's motion to dismiss Chapter 7 Case pursuant to 11 U.S.C. Section 707(b)(1), (b)(2) and (3)(B) and contingent motion to extend bar date for filing complaint under 11 U.S.C. Section 727 objecting to debtors' discharge

Docket 20

Tentative Ruling:

Grant the United State's Trustee's motion (dkt. 20) and dismiss this case for the reasons stated therein. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kenneth D. Castillo

Represented By
James D. Hornbuckle

Joint Debtor(s):

Lisbeth M. Castillo

Represented By
James D. Hornbuckle

Movant(s):

United States Trustee (LA)

Represented By
Kelly L Morrison

**United States Bankruptcy Court
Central District of California
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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

CONT... Kenneth D. Castillo and Lisbeth M. Castillo

Chapter 7

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

2:18-13667 Roland J. Valdez and Inez M. Valdez

Chapter 7

#4.00 Hrg re: Chapter 7 Trustee's motion for order: (1) Approving sale and settlement agreement between the Trustee and the Debtors regarding the Debtors' residence pursuant to 11 U.S.C. Section 363(b); and (2) Allowing and authorizing payment of reduced real estate commissions to the Trustee's court approved co-agents per section 330(a)

Docket 98

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Roland J. Valdez

Represented By
Bruce A Wilson

Joint Debtor(s):

Inez M. Valdez

Represented By
Bruce A Wilson

Movant(s):

Jason M Rund (TR)

Represented By
Thomas H Casey

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Hearing Room 1545

11:00 AM

CONT... Roland J. Valdez and Inez M. Valdez

Chapter 7

Kathleen J McCarthy

Trustee(s):

Jason M Rund (TR)

Represented By

Thomas H Casey

Kathleen J McCarthy

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

2:18-22574 David Paul Davis

Chapter 13

Adv#: 2:19-01030 Swift Financial, LLC v. Davis et al

#5.00 Status conference re: Complaint to
determine nondischargeability of debt

Docket 1

Tentative Ruling:

Dismiss this (nondischargeability) adversary proceeding as moot because of the dismissal of the main case on 2/15/19 (see dkt. 34). After the hearing date this Court will prepare the order. Appearances are not required.

Party Information

Debtor(s):

David Paul Davis

Represented By
Michael Jay Berger

Defendant(s):

Stephen Paul Davis

Pro Se

David Paul Davis

Pro Se

DOES 1-10, inclusive

Pro Se

Joint Debtor(s):

Stephen Paul Davis

Represented By
Michael Jay Berger

Plaintiff(s):

Swift Financial, LLC

Represented By
Daren M Schlecter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

2:18-21849 Ronald Serrano Yuson

Chapter 7

Adv#: 2:19-01031 Yoo v. Dungca et al

#6.00 Status conference re: Complaint for recovery
of money/property

Docket 1

Tentative Ruling:

Continue to 6/4/19 at 11:00 a.m. for the parties to finalize and obtain approval of their settlement. See Status Report (adv. dkt. 5). Appearances are not required on 4/2/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ronald Serrano Yuson

Represented By
Marvin Jarrett Mann

Defendant(s):

Rommel Dungca

Pro Se

Arlene Dungca

Pro Se

DOES 1-10

Pro Se

Plaintiff(s):

Timothy J. Yoo

Represented By
Leonard Pena

**United States Bankruptcy Court
Central District of California
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Tuesday, April 2, 2019

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11:00 AM

CONT... Ronald Serrano Yuson

Chapter 7

Trustee(s):

Timothy Yoo (TR)

Represented By
Leonard Pena

**United States Bankruptcy Court
Central District of California
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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:19-01028 Affeld Grivakes LLP v. Pachulski

#7.00 Status conference re: Complaint for 1) Declaratory Relief; 2) Enforcement of lien

Docket 1

Tentative Ruling:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 4) and the other filed documents and records in this adversary proceeding.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the

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Tuesday, April 2, 2019

Hearing Room 1545

11:00 AM

CONT... Layfield & Barrett, APC

Chapter 11

parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 4/16/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 1/29/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 7/9/19, subject to adjustment at next status conference depending on Alvarez issues (see Status Report, adv. dkt. 4, section G).

Expert(s) - deadline for reports: 7/23/19 (subject to same adjustment)

Expert(s) - discovery cutoff (if different from above): 8/6/19 (subject to same adjustment)

Dispositive motions to be heard no later than: TBD

Joint Status Report: 5/21/19.

Continued status conference: 6/4/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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11:00 AM

CONT... Layfield & Barrett, APC

Chapter 11

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Richard M Pachulski

Represented By
James KT Hunter

Plaintiff(s):

Affeld Grivakes LLP

Represented By
Damion Robinson

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
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Tuesday, April 2, 2019

Hearing Room 1545

1:00 PM

2:14-11423 Rolando Verdecia and Ivonne Verdecia

Chapter 11

#1.00 Hrg re: U.S. Trustee's motion to dismiss or convert case

Docket 231

Tentative Ruling:

The tentative ruling is to (1) grant the United State's Trustee's request for conversion, for the reasons stated in their motion (dkt. 231), and (2) set a deadline of 5/2/19 for Debtor's counsel to file and serve any fee application under 11 U.S.C. 330. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rolando Verdecia

Represented By
Michael J Jaurigue
Nam H. Le
Elaine Le

Joint Debtor(s):

Ivonne Verdecia

Represented By
Michael J Jaurigue
Nam H. Le
Elaine Le

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1:00 PM

CONT... Rolando Verdecia and Ivonne Verdecia

Chapter 11

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
Central District of California
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Tuesday, April 2, 2019

Hearing Room 1545

1:00 PM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#2.00 Hrg re: U.S. Trustee's motion to dismiss or convert case

Docket 163

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

The tentative ruling, based on the continuing compliance stipulation (dkt. 45) and order thereon (dkt. 47), and the very late payments evidenced in the reply papers (dkt. 166), is that if Debtor is more than 7 days late in paying any quarterly fee then, without any prior notice to Debtor or anyone else, and without any cure period or hearing, the United States Trustee may file and serve a declaration and lodge a proposed dismissal order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Glynder Lucas Striggs

Represented By
Onyinye N Anyama

Movant(s):

United States Trustee (LA)

Represented By
Dare Law
Kelly L Morrison

**United States Bankruptcy Court
Central District of California
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Tuesday, April 2, 2019

Hearing Room 1545

1:00 PM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#3.00 Hrg re: U.S. Trustee's motion to dismiss or convert case

Docket 79

Tentative Ruling:

Deny, based on the representations in Debtor's opposition (dkt. 82) that they are now compliant with the U.S. Trustee's Guidelines. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 2, 2019

Hearing Room 1545

1:00 PM

2:18-22059 JDS Hospitality Group LLC

Chapter 11

#4.00 Hrg re: U.S. Trustee's Motion to Dismiss or Convert Case

Docket 93

***** VACATED *** REASON: Voluntary dismissal of motion filed on
3/20/19 [dkt. 99]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang
David Samuel Shevitz

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
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Tuesday, April 2, 2019

Hearing Room 1545

1:00 PM

2:12-48024 Jane E Mcallister and Jaime Alan Scher

Chapter 11

#5.00 Hrg re: Motion for discharge

Docket 217

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jane E Mcallister

Represented By
David Samuel Shevitz
Thomas B Ure

Joint Debtor(s):

Jaime Alan Scher

Represented By
David Samuel Shevitz
Thomas B Ure

Movant(s):

Jane E Mcallister

Represented By
David Samuel Shevitz
Thomas B Ure

Jaime Alan Scher

Represented By

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

CONT...

Jane E Mcallister and Jaime Alan Scher

David Samuel Shevitz
Thomas B Ure

Chapter 11

**United States Bankruptcy Court
Central District of California
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Tuesday, April 2, 2019

Hearing Room 1545

1:00 PM

2:19-10153 Christian Rossil

Chapter 11

#6.00 Hrg re: Motion to Sell Property of the Estate Free and Clear of Liens Under Section 363(f)

Docket 23

Tentative Ruling:

Appearances required. The tentative ruling is to deny the motion unless all the issues set forth below are resolved, and if that occurs, or is reliably promised, then continue the motion to 4/30/19 at 1:00 p.m. with a deadline of 4/9/19 for Debtor to file and serve an amended motion on all creditors via U.S. mail.

The tentative ruling is to require the following:

- (a) Overbidding: Debtor must amend the overbidding procedures to address the concerns raised in the objection filed by the United States Trustee ("UST") (dkt. 39);
- (b) Rent: Debtor must satisfactorily address whether the tenant/proposed buyer is being forgiven rent and, if not, what steps are being taken to recover the missing rent payments (*id.*);
- (c) Receipt of deposits: Debtor must provide an offer of proof regarding the proposed buyer's deposits (*id.*);
- (d) Withholdings, and use of net proceeds: Debtor must provide that the sale free and clear of liens will result in Debtor holding only an approximation of the disputed portion of those liens, and the withheld portion must be specified in the motion and must be a reasonable amount; and Debtor must address what assurances will be provided that the net proceeds of sale will be held or will only be used for purposes that are authorized by this Court (*e.g.*, will all net proceeds be held in a blocked account?);
- (e) Notice of sale: No later than the deadline for filing and serving the amended motion, Debtor must file a notice of sale on the local form (LBR 6004-1(f));
- (f) Taxes: Debtor must address the tax consequences of the proposed sale (LBR 6004-1(c)(3)(l)).
- (g) "Pre-Release to Debtor": Debtor must explain and justify the tens of thousands of dollars that are listed as "Pre Release" to Debtor before the

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Hearing Room 1545

1:00 PM

CONT...

Christian Rossil

Chapter 11

amount "Due To Seller" on the estimated closing statement (dkt. 23, Ex.B, at PDF p.43);

(h) Good faith finding: Judge Bason's posted procedures (available at cacb.uscourts.gov) provide that before any successful bidder is found to be a good faith purchaser under 11 U.S.C. 363(m), supporting declaration(s) must be filed that address:

(1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees),

(2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and

(3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. See *generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

CONT... Christian Rossil

Chapter 11

Movant(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
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Tuesday, April 2, 2019

Hearing Room 1545

1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

**#7.00 Combined hrg re: Approval of Disclosure Statement
and Chapter 11 Plan**

Docket 75

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8,
4/2/19 at 1:00 p.m.)

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
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Tuesday, April 2, 2019

Hearing Room 1545

1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/14/18, 9/18/18, 10/16/18, 11/27/18, 01/09/18,
2/5/19

Docket 7

Tentative Ruling:

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #8, Feb. 2019, dkt. 85), and US Trustee Notice of Delinquency (dkt. 82)

At the 2/5/19 hearing, Debtor's counsel informed this Court that Debtor actually was postpetition current with secured creditors despite MOR #6 reflecting 3 missed payments to FCI Lender and 3 missed payments to Rushmore Loan Management. But MOR #8 still reflects that those payments are missing. Dkt. 85, p.7. What is Debtor's explanation?

Meanwhile, the United States Trustee ("UST") has filed a Notice of Delinquency (dkt. 82) stating that Debtor missed a quarterly payment of \$650 to the United States, and has not (as of that date) provided proof of current insurance (including a vehicle). These defaults call into question whether Debtor has sufficient cash flow to reorganize in this case.

(b) First Amended Plan (dkt. 76) and Disclosure Statement (dkt.75) - voting: acceptance by some, but not all, impaired classes (section 1129(a)(8))

As noted below, Class 1A has been combined with Class 2A, so there are three classes: Classes 2A (Wilmington), 2B (Nationwide/Hechter/Ocean), and 4A (general unsecured creditors). Debtor's Ballot Summary (dkt. 91) lists these three classes, but it includes two errors.

First, it asserts on page 1, item 6, that only one class (Class "2(a)") has accepted the Plan. But the ballots attached to the summary appear to show that two classes have accepted the Plan (Classes 2A and 4A).

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Second, the Ballot Summary states on page 1, item 3, that cramdown (11 U.S.C. 1129(b)) is not requested. But 11 U.S.C. 1129(a)(8) requires acceptance by all impaired classes, and the only exception is cramdown. See 11 U.S.C. 1129(b) ("if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met ..." then the Court can confirm such plan in certain circumstances). In other words, by no withdrawing the Plan and instead proceeding with this hearing, Debtors implicitly request cramdown, even though the Ballot Summary says otherwise.

Accordingly, this Court will examine both whether the Plan meets all the requirements of subsection "(a)" of section 1129 (other than paragraph "(8)") and whether it meets the requirements of subsection "(b)." In addition, this Court will examine whether the Disclosure Statement, which was only provisionally approved for purposes of soliciting votes, can be approved on a final basis as containing "adequate information" within the meaning of 11 U.S.C. 1125(a)&(b).

(c) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a) (11) feasibility

Debtor proposes a 100% dividend to all creditors. But Debtor's budget is very thin. See Disclosure Statement, Exhibits C & I (dkt. 75, at PDF pp.6 & 13). Even with minimal expenditures on items like food and housekeeping (\$550/mo.) and medical and dental expenses (\$50/mo.), Debtor projects that she will have only \$75.00 left at the end of the Effective Date and \$42.14/mo. left each month thereafter (increasing to \$358.70/mo. after the first 50 months).

But as noted above Debtor's finances appear to be unreliable. How can this Court find that Debtor's Plan is feasible (i) if Debtor is already behind on postpetition payments or alternatively (ii) if Debtor's reporting is so unreliable?

In addition, Debtors' cash flow has been made worse by their Court-approved stipulation to resolve an objection to confirmation and modify their Plan with Creditor Wilmington Savings Fund Society, FSB dba Christiana Trust ("Wilmington"). See dkt. 78 (limited obj.), dkt. 86 (stipulation), & dkt. 88 (order approving stip.). The Plan calls for payments to Wilmington of \$1,187.10/mo (Class 2A & Ex.E) plus another \$402.95/mo. for the arrears (originally Class 1A, but now included in Class 2A per the stipulation, dkt. 86, p.3, para."1"), for a total of \$1,590.05. The stipulation calls for slightly more:

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(i) payments of \$1,119.61/mo. (amortizing payments of principal and interest) + (ii) \$255.50/mo. estimated escrow payments (which do not appear to be accounted for in Debtors' budget, dkt. 75, Ex.I) + (iii) \$402.95/mo. to pay arrears, for a total of \$1,778.06 (which is \$188.01/mo. more than contemplated in the Plan: \$1,778.06 - \$1,590.05 = \$188.01).

A feasibility objection has been raised (dkt. 83) by creditor(s) Amir Hechter 24/42% Ocean 18, LLC 75.58% ("Hechter/Ocean") (Class 2B, listed as "Nationwide Servicing Center" in the Plan (dkt. 76, p.7). Based on the foregoing analysis, the tentative ruling is to sustain that objection.

(d) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a)(7) "best interests of creditors"

Hechter/Ocean objects that the Plan does not meet the "best interests of creditors" test, which requires that each creditor receive property of a value, "as of the effective date of the plan, that is not less than the amount that such [creditor would receive] if the debtor were liquidated under chapter 7 of this title on such date." 11 U.S.C. 1129(a)(7)(A)(ii). The value of Debtor's promise of cash payments over time is addressed below.

(e) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a)(3) "good faith"

Hechter/Ocean objects that its loan matured seven years ago, that it negotiated a second mortgage loan based on Debtor's credit worthiness, property value, etc. at the time when the loan was made, and

[t]o arbitrarily extend the term of a loan secured by property from which the Debtor is collecting rents, and using the rental income for payment to other creditors, while forcing this creditor to wait 30 additional years to recover its full investment, puts the Debtor's good faith in question. [Dkt. 83, p.5:24-26]

On the one hand, there is no inherent lack of good faith in proposing to pay debts over time, even if those debts have already matured. To the contrary, for all creditors - regardless whether they are an unsecured tort victim, an unsecured trade vendor, a secured creditor with a fully matured loan, or a secured creditor with a loan that has just begun - the Bankruptcy Code contemplates that typically they will be paid over time, so as to maximize a debtor's ability to pay all creditors.

On the other hand, the tentative ruling is that Hechter/Ocean is correct

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that there are limits to this ability to pay over time. Debtor's good faith in proposing the Plan's treatment of Hechter/Ocean (Class 2B) is intertwined with whether that class will receive an appropriate interest rate to compensate it for all risks, including the increased risk from a long (360 month) term of repayments. Those issues of the appropriate interest rate and term are addressed below.

(f) Plan (dkt. 76) and Disclosure Statement (dkt.75) - other requirements of section 1129(a)

The tentative ruling is that the remaining requirements of section 1129(a) are either satisfied or irrelevant. For example, the requirements in paragraph "(9)" for treatment of tax claims appear to be satisfied by Debtor's use of this Court's form Plan and exhibits, which provide for payment of tax claims over a shorter period than other creditors in compliance with that paragraph of section 1129(a).

(g) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(b) "cramdown"

Under 11 U.S.C. 1129(b) this Court "shall" confirm the Plan if it satisfies all the requirements of subsection "(a)" except for paragraph "(8)" (acceptance by all impaired classes) and "if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." The "fair and equitable" requirement includes, but is not limited to, the requirements of paragraph "(2)" of section 1129(b), which are addressed below.

Hechter/Ocean objects that the Plan does not provide the "indubitable equivalent" of its claim. The tentative ruling is to overrule that objection, because the "indubitable equivalent" is just one of three alternative treatments: (i) retaining the creditor's lien and receiving "deferred cash payments" with a present value of the lien's present value (what the Plan proposes) (11 U.S.C. 1129(b)(2)(A)(i)), (ii) a sale, subject to credit bidding rights (1129(b)(2)(A)(ii)), "or" (iii) the "indubitable equivalent" of the creditor's claim (1129(b)(2)(A)(iii)).

But that leads to another objection raised by Hechter/Ocean: that the Plan does not provide cash payments with a present value equal to its lien's present value. 11 U.S.C. 1129(b)(2)(A)(i). Hechter/Ocean argues that "this Court should require an interest rate of 7.75% and a shorter, more

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reasonable term." Dkt. 83, p.4:20-21.

Hechter/Ocean uses the "formula" approach that was used by the Supreme Court for small-value collateral (a used truck) in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). That formula is the prime rate plus 1% to 3% depending on the risk factors.

It is an open question whether the Supreme Court intended for the formula approach to be used in all cases. The Posted procedures of Judge Bason (available at www.cacb.uscourts.gov) include the following:

§§ 506(b), 1129(b), 1325: "cramdown" interest rates. Judge Bason has expressed the view in various cases that when dealing with relatively small dollar amounts (for which the cost of presenting expert testimony as to interest rates would be prohibitive) the analysis in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004), is appropriate, and conversely when dealing with larger dollar amounts the *Till* analysis probably is not appropriate, and one acceptable method for experts to opine as to the appropriate interest rate is the method described in *In re Boulders on the River, Inc.*, 164 B.R. 99 (9th Cir. BAP 1994); see *In re N. Valley Mall, LLC*, 432 B.R. 825 (Bankr. C.D. Cal. 2010) (discussing continued viability of *Boulders on the River*).

The question is whether, in the facts and circumstances of this case, this Court should apply the simpler analysis in *Till* or a more complex analysis such as the one in *Boulders on the River/N. Valley Mall*. The tentative ruling is to use the *Till* analysis.

Applying *Till*, Hechter/Ocean asserts that the "current prime rate is 5.5%" and "[t]herefore a fixed rate of 6.5% to 8.5% would be proper as the bankrupt Debtor is getting an 84% loan to value ['LTV'] loan: this rate would be unavailable to a borrower with a history of defaults with even a 20% loan to value loan in today's market." Dkt. 83, p.5:10-14. As for the proposed term of repayment under the Plan (360 months), which is intertwined with the appropriate interest rate and is also an independent issue, Hechter/Ocean argues:

[T]he loan fully matured on December 28, 2011, more than seven years prior to the expected effective date of the plan. The Debtor proposes that the claim be paid over a new term of 360 months from the effective date. That is adding 30 years to a loan that matured more than seven years ago. Such treatment is patently

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unfair to this Secured Creditor, who negotiated a second mortgage loan based on the Debtor's credit worthiness, property value, etc. [Dkt. 83, p.5:19-23]

The tentative ruling is that, before this Court could fully assess the appropriate interest rate and term of any proposed repayment to Hechter/Ocean, this Court would need more evidence. But the tentative ruling is that, based on the evidence that is already in the record, the current proposed Plan's treatment of this claim is insufficient, and therefore the Plan cannot be confirmed.

Specifically, the additional evidence that would need to be presented would include support for Hechter/Ocean's assertion that the current prime rate is 5.5%, and evidence bearing on the risk factors, including whether there are analogous market rates for comparable debt (second liens, with a comparable LTV and comparable duration). See *also Till*, 541 U.S. 465, 484 (majority noting four components of risk cited by dissent: "(1) the probability of plan failure; (2) the rate of collateral depreciation; (3) the liquidity of the collateral market; and (4) the administrative expenses of enforcement").

(h) Conclusion as to Debtor's finances, and proposed Plan (dkt. 76) and Disclosure Statement (dkt.75)

The tentative ruling is that the cash flow evidence does not support the projections in Debtors' Disclosure Statement, so it cannot be approved on a final basis. In addition, the tentative ruling is that the Plan cannot be confirmed because Debtors have not established feasibility (1129(a)(11)).

The parties would have to present more evidence before this Court could determine the specific interest rate to provide present value (for purposes of 1129(b)(2)(A)(i), 1129(a)(3), and 1129(a)(7)) and whether the proposed term is too long to be "fair and equitable" to Hechter/Ocean (1129(b)(1)). But the tentative ruling is that (i) the combination of the currently proposed interest rate and term are insufficient to provide present value and (ii) this Court need not reach the issue of what exact interest rate and term would be necessary to provide present value because the feasibility issue is dispositive.

(i) Future proceedings / disposition of this case

Based on the foregoing tentative rulings, the parties should be prepared to address whether this case should be dismissed or converted.

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One alternative might be for Debtor to abandon the property secured by the lien of Hechter/Ocean. Another alternative might be if Debtors have any other, more feasible strategy to reorganize their finances, including any good faith grounds to object to the Hechter/Ocean claim, and whether that would reduce their obligations enough so that they could propose a feasible plan. But it might be too late to propose such a strategy given the duration of this case, and the lack of evidence that Debtor's finances are improving.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: see above.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to set a continued status conference for 5/7/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Finances (MOR#6, Dec. 2018, dkt. 72)

Debtor reports having lost money during this month and having missed 3 payments amounting to \$3,510 to FCI Lender (*but see* APO, dkt. 70), 3 payments amounting to \$5,334.18 to Rushmore Loan Mgmt (dkt.72, p.7), and quarterly UST fees of \$325 (*id.*, p.9). Debtor also reports that vehicle

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insurance was only \$25,000 (does that comply with legal requirements?) and expired on 12/22/18. *Id.*, p.7.

What caused these losses and missed payments? How can Debtor afford to continue in this chapter 11 bankruptcy case?

(b) Plan (dkt. 74), Disclosure Statement (dkt. 73), and order setting hearing re same (dkt. 63)

The tentative ruling is to reschedule the combined hearing on final approval of the Disclosure Statement and confirmation of the Plan from 3/5/19 to 4/2/19 at 1:00 p.m. for two reasons. First, as noted above, Debtor's finances are problematic, and perhaps additional time will enable Debtor to establish a better track record and meet the feasibility requirement of 11 U.S.C. 1129(a)(11).

Second, contrary to the oral ruling at the last status conference, Debtor did not lodge this Court's form of order (posted at www.cacb.uscourts.gov, under Judge Bason's portion of the web site) setting a combined hearing, which would have directed Debtor to provide notice to creditors of the 3/5/19 hearing (and associated deadlines) in sufficient time to comply with the applicable rules. (Debtor's counsel apparently misunderstood and lodged a different order that included the 3/5/19 hearing along with other matters, which this Court signed without recognizing the error, dkt. 63.)

The tentative ruling is to set a deadline of 2/8/19 for Debtor to lodge the correct form of order and file a revised Disclosure Statement and revised Plan that list the revised 4/2/19 hearing date in the caption, and that include a revised form of ballot (dkt. 74, Appendix "1") that states "The Court has provisionally approved" the Disclosure Statement instead of "The Court has approved" (Emphasis added.)

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: see above.

(c) Continued status conference: 4/2/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue as set forth below. Appearances are not required on 1/8/19.

(1) Current issues.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Report (dkt. 67). This Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: file by 1/18/19 (see dkt. 63) using the forms required by Judge Bason and lodge a proposed order authorizing service of those documents and setting a combined hearing on final approval of the disclosure statement and confirmation of the plan (DO NOT SERVE yet, except on the U.S. Trustee - this Court will review the filed documents and then either issue the proposed order or establish other procedures).

(c) Continued status conference: 2/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor's September Monthly Operating Report (dkt. 50), lists a total of \$2,900 for "personal expenses." What are these expenses?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/8/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor still has not lodged interim or final orders approving the use of cash collateral, or a final order approving her budget. Why not?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written

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status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 42) and the other filed documents in this case.

(a) Motion of U.S. Trustee ("UST") to dismiss or convert (dkt. 21). The debtor claims to have come into compliance (dkt. 41). Does the UST have any outstanding compliance issues?

(b) Budget motion (dkt. 15) and supplemental declaration of non-debtor spouse Jose M. Juarez (dkt. 37). Grant on a final basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Cash collateral motion (dkt. 14, 16). The adopted tentative ruling for the 8/14/18 hearing (reproduced at calendar no. 7, 9/18/18 at 1:00 p.m.) directed the debtor to file an order granting the motion on an interim basis. No such order has been lodged. Why not? Subject to a satisfactory answer, the tentative ruling is to grant the motion on a final basis, on the same terms as it was granted on an interim basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 17) and the other filed documents in this case.

(a) Budget motion (dkt. 15). Grant on an interim basis, with a final hearing concurrent with the continued status conference (see below), and a deadline of 8/21/18 to file declaration(s) regarding the income of the debtor's spouse (see below). *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Debtor's spouse's income. The debtor's bankruptcy Schedule I reports that the debtor's spouse is a self-employed construction contractor, but that the spouse only earns \$1,500/mo. in net income. Dkt. 1, at PDF p.32, line 8a. This Court takes judicial notice that there is considerable construction activity in this geographic area. Why is that income not higher?

In addition, there is no attached statement showing gross income, expenses, and the calculation of net income. That is contrary to the instructions for line 8a, and to this Court's order that for reporting purposes any spouse is to be treated as equivalent to the debtor (dkt. 6, para.3).

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (DO NOT SERVE notice yet - court will prepare

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an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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2:18-16732 Motiv8 Investments, LLC

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#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/15/19, 2/26/19, 03/05/19

CRESCENT CAPITAL HOLDINGS, LLC
vs
DEBTOR

Docket 78

Tentative Ruling:

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference (calendar no. 10, 4/2/19 at 1:00 p.m.)

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference (calendar no. 12, 3/5/19 at 1:00 p.m.)

Tentative Ruling for 2/26/19:

Please see the tentative ruling in the status conference (cal. #10, 2/26/19 at 1:00 p.m.).

Tentative Ruling 1/15/19:

Appearances required. The tentative ruling is either (1) if no evidence of insurance is provided at the hearing, or perhaps within a very short window, to grant immediate relief from the automatic stay, and otherwise (2) to require Debtor to sell the subject property immediately, and set related procedures including a continued hearing on this motion for relief from the automatic stay, all as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Background

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Movant previously filed a motion (dkt. 8) for relief from the automatic stay in this case. This Court issued an adequate protection order (dkt. 31, the "APO"). The APO provides that the stay will remain in place as long as Debtor makes adequate protection payments, but that the stay will not apply in any future bankruptcy case ("*in rem*" relief).

(2) Alleged cause for relief under 11 U.S.C. 362(d)(1)&(4)

(a) Insurance

Movant asserts that Debtor has failed to provide proof that the property is insured. See dkt. 78, p.3. Debtor's response (dkt. 83) fails to address this issue, as pointed out by Movant's reply (dkt. 85).

At the hearing, Debtor is directed to address whether the property is insured, and to make an offer of proof. This Court may be persuaded to terminate the automatic stay immediately if Debtor fails to provide adequate proof of insurance that complies with the loan documents (e.g., naming Movant as a party entitled to notice and/or as an insured party, if that is what the loan documents require).

(b) Order for relief from the stay in a related case

Movant now seeks relief again, pointing out that since the APO was issued an order granting relief from the automatic stay has been issued in a case filed by Debtor's principal and 100% equity owner, Sergio Moreno Morales. See *In re Morales* (Case No. 2:18-bk-16365-WB), dkt. 31 (issued on 7/3/18) (the "*In Rem Order*"). The In Rem Order grants relief under 11 U.S.C. 362(d)(4) - *i.e.*, relief that is applicable notwithstanding any future bankruptcy case. By definition the In Rem Order is not applicable to this pending bankruptcy case, but Movant apparently believes the issuance of that order should be considered cause under 11 U.S.C. 362(d)(1)&(4) to modify the APO so as to terminate the automatic stay immediately.

This Court is not persuaded. First, as Debtor points, in this case there is no evidence that Debtor has failed to comply with the APO.

Second, the In Rem Order itself recites that there was no opposition to that order. In contrast, in this case Debtor has responded and adequately established, long before the In Rem Order was issued, that there were grounds to hold Debtor to a strict APO but not terminate the stay.

To summarize this Court's prior reasoning in issuing the APO, although it is true that Mr. Morales has filed multiple bankruptcy cases and previously arranged an unauthorized transfer of title to the real property from Debtor to

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himself, (a) title was restored to Debtor on or about 6/1/18 (see dkt. 21, p.4:5-6), (b) Mr. Morales has adequately explained his prior bankruptcy cases and the unauthorized transfer of title, at least for purposes of issuing the APO rather than terminating the automatic stay (see dkt. 21, pp.4:9-5:21, and 7:12-10:22), and (c) creditors would be harmed if the stay were terminated in this case. Not only does this reasoning still apply, but the APO is the law of this case, and Movant has neither briefed the standards for overcoming the law of the case nor established legal or factual grounds for reconsidering the APO.

(3) Alleged grounds for relief under 11 U.S.C. 362(d)(2)

As Debtor argues, Movant must show both (a) a lack of equity in the property and (b) that the property is not necessary for an effective reorganization. Debtor disputes both of these prongs. Ultimately, however, both parties' arguments depend on whether there is equity in the property. If there is, then the property can be sold and net proceeds distributed to creditors. If there is no equity, Debtor has not suggested any reason why the property would be necessary to an effective reorganization.

Any equity in the property is equal to the property's value minus costs of sale and liens or other encumbrances. Debtor questions whether the dollar amount that Movant claims to be owed on its lien takes into consideration the payments made under the APO. That may make a difference of a few thousand dollars. The larger issue is the value of the property.

Movant asserts that the value is \$750,000. See dkt. 78, p.8 & Ex.M, and dkt. 85 at PDF pp.11 *et seq.* (Mauch Decl.). Debtor's principal asserts (dkt. 83, pp.9:20-10:2) that Debtor has recently accepted an offer to purchase the property for \$850,000, for which he will seek this Court's approval under 11 U.S.C. 363(b)&(f). Debtor's principal also asserts (*id.*) that he believes the property is actually worth much more - approximately \$915,000 - but that "in the interest of moving Debtor's reorganization along and avoiding Movant's attempts at relief and foreclosure" he "has determined that it is in the best interest of the estate to accept a purchase price of \$850,000.00."

The tentative ruling is that the best method of determining whether Debtor has an equity in the property (and hence, in the circumstances of this case, whether the property is necessary to an effective reorganization of Debtor's finances) is to move forward with the proposed sale of the property (presumably subject to overbids). As the Supreme Court has stated,

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generally "the best way to determine value is exposure to a market." *Bank of Am. v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457 (1999).

This Court takes judicial notice that Debtor has filed an application (dkt. 82) to employ a real estate broker. In other words, Debtor appears to be taking steps to proceed with the proposed sale of the property.

Accordingly, the tentative ruling is to set a deadline for Debtor to file and serve its motion to sell the property under 11 U.S.C. 363(b)&(f), and defer any other issues until after this Court determines whether or not to approve the proposed sale. The tentative ruling is that a motion to sell must be filed and served no later than 2/1/19, and self-calendared for hearing on 2/26/19 at 1:00 p.m.

In addition, the tentative ruling is to continue the present motion for relief from the automatic stay to the same time (specially set at 1:00 p.m., rather than the usual time of 10:00 a.m.). In addition, the tentative ruling is to reschedule the upcoming Status Conference in this case from 2/5/19 to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

Crescent Capital Holdings, LLC

Represented By
Amy E Martinez

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#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/10/18, 9/18/18, 10/2/18, 11/27/18, 02/05/19,
2/26/19, 03/05/19

Docket 8

Tentative Ruling:

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Closing of sale (per Order, dkt. 129)

Debtor's status report (dkt. 128) does not state how soon the approved sale will close. When is it scheduled to close?

(b) Motion for Relief from Stay (dkt. 78)

If there is a satisfactory answer to how soon the sale will close, the tentative ruling is to continue this motion to the same time as the continued status conference to allow time for the sale to be completed and for Debtor to pay approximately \$645,707.28 to Crescent (\$870,885 payoff demand, per dkt. 128, p.3:14, minus amounts to be held aside pending resolution of forthcoming claim objection: approximately \$200,177.72 in default interest and \$25,000 balloon fee).

(c) Forthcoming claim objection

How soon will this be filed?

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/7/19 at 1:00 p.m., brief status report due 4/30/19

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 3/5/19:
Appearances required.

(1) Current issues

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

The parties must inform the Court as to the status of the Mr. Vasquez and the bankruptcy estate having separate real estate brokers (or Mr. Vasquez proceeding without a broker); how any brokers will split the 4% commission; and the other issues laid out by the Court in the tentative ruling for the 2/26/19 hearing. The tentative ruling is that the sale cannot be approved until a broker is authorized to represent the estate in the sale.

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying any attorney fees out of escrow, or paying the real estate brokers until those brokers are actually retained, but overrule those objections to the extent they object to paying costs of sale, including real estate brokers, ahead of Crescent.

(ii) Payment of the portion of Crescent's claim that is not (yet) disputed, and real estate taxes

The parties should be prepared to address whether a new closing statement has been generated to update the amount to be paid to Crescent and to show that real estate taxes will be paid out of escrow.

(iii) "Good faith" finding

If Mr. Vasquez files a declaration that comports with Judge Bason's procedures before the proposed order approving the sale is lodged, then the tentative ruling is to include a good faith finding in that order.

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(iv) Approval of sale

Subject to all the foregoing (including that a broker must be retained before the sale can be approved), the tentative ruling is to approve the sale.

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued status conference to allow time for the sale to be completed.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m., brief status report due 4/23/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues (dkt. 111 etc.)

Debtor's proposed sale of certain real estate is intertwined with Debtor's proposed employment of a real estate broker. The tentative ruling is to go forward with the sale hearing, including any overbids, and approve the sale on a provisional basis, with a continued hearing on both the employment application and the sale motion at the same time as the continued status conference (see below).

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

As pointed out by both the United States Trustee ("UST") (dkt. 104) and creditor Crescent Capital Holdings ("Crescent") (dkt. 110), Mr. Gallardo is

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purporting to act as a dual agent, for both the seller (Debtor) and the proposed buyer (subject to overbids), Luis Vasquez. Judge Bason prohibits dual agency, as noted both in his posted Procedures (available at www.cacb.uscourts.gov) and in the order approving the prior real estate broker (dkt. 92) (Mr. Leal).

The tentative ruling is that the lack of dual agency is mandated by the disinterestedness requirements of the Bankruptcy Code and Rules, so it cannot be waived. It is irrelevant that, outside of bankruptcy, it is not uncommon for parties in real estate transactions to accept their agent's lack of disinterestedness. See Reply to Sale Motion (dkt. 115, p.3:10-21).

Accordingly, the tentative ruling is that, if the highest and best bid is that of Mr. Vasquez, then Mr. Vasquez must file a declaration confirming that he has retained his own real estate broker (who must be unaffiliated with Mr. Gallardo), and Mr. Gallardo must represent only Debtor and the bankruptcy estate (not Mr. Vasquez).

In addition, the parties are directed to address whether Mr. Gallardo and/or Debtor's counsel must pay the additional real estate broker out of either (i) a portion of the 4% commission that was to have been paid solely to Mr. Gallardo, or (ii) out of a reduction in Debtor's counsel's attorney fees, so that the bankruptcy estate is not prejudiced by Debtor's non-compliance with the prohibition on dual agency. In other words, should this Court order that the total commission to all real estate brokers combined must not exceed 4%?

In addition, there might be other grounds for objecting to Mr. Gallardo's employment, and the time for objections has not yet expired, so the employment cannot be approved yet. The employment application was served on 2/12/19, which means that objections can be filed until 3/1/19 (14 days plus 3 for service via U.S. mail). Until after that date, parties in interest and this Court will not know if, for example, someone were to object to Mr. Gallardo's employment and the proposed sale on the basis that Mr. Gallardo had an undisclosed interest in the sale.

The tentative ruling is that until Mr. Guillardo's employment is approved, the sale must be only provisionally approved. The tentative ruling is that it is appropriate to shorten time (Rule 9006, Fed. R. Bankr. P.) because there is a substantial risk in any bankruptcy sale that if the sale is deferred then prospective purchasers may be unable or unwilling to continue to bid on the property (this Court takes judicial notice that there are

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considerable costs in holding a proposed sale open, if it is even possible to retain enough funds on hand to close a sale that has been deferred).

For all of the foregoing reasons, the tentative ruling is to set the employment application for hearing at the same time as the continued sale motion and continued status conference (see below).

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Continued hearing

The tentative ruling is to approve the sale (subject to overbids) on a provisional basis, with a continued hearing at the same time as the continued status conference (see below). Between now and that continued hearing, Mr. Vasquez must arrange for a separate real estate broker to represent him (or must proceed without any real estate broker), and must disclaim any reliance on any past representation by Mr. Guillardo and any present representation by him. In addition, the parties can take whatever steps may be appropriate to address the issues set forth below.

(ii) No approval or payment of attorney fees at this time

The tentative ruling is to sustain the objection of the UST (dkt. 104), joined in by Crescent (dkt. 110), that attorney fees must be subject to approval by this Court pursuant to the usual procedures, and that any approval of the proposed sale shall not be deemed to be approval of the attorney fees. The tentative ruling is that the proposed attorney fees must be held by Debtor's counsel in a separate account from which funds cannot be released without further order of this Court (a "Blocked Account"). In addition, the tentative ruling is to defer any ruling on Crescent's objection that it should be paid in full before any attorney fees are allowed (dkt. 110, p.5:24-25), because the timing of any distribution of attorney fees can be addressed in connection with allowance or disallowance of those fees.

(iii) Payment of real estate taxes

Crescent objects (dkt. 110, pp.4:24-5:14) that LA County's claim for real estate taxes, estimated to be \$18,456.38, is of a lower priority than Crescent's own claim and therefore should not be paid until Crescent is paid in full. The parties are directed to address (x) whether the real estate taxes are in fact of a lower priority than Crescent's lien, (y) whether any doctrine of marshaling should apply (*i.e.*, whether, even if Crescent's lien is of a higher priority in this property, its claim should be paid from the sale of any other

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property of the estate so that LA County can be paid out of this sale, or alternatively whether LA County is entitled to a replacement lien on other property so that it is not prejudiced by the fact that this property is being sold prior to other properties), and (z) whether any disputed funds that Debtor proposes to pay either LA County or Crescent must be held in the Blocked Account pending further order of this Court.

In addition, the parties are directed to address how any accruing interest affects the analysis. For example, if funds are held in a Blocked Account pending resolution of the competing claims of LA County and Crescent, will those claims continue to accrue interest at the rate that otherwise would apply (e.g., 18% or 29.99% or some other high rate), or only at the rate that is being paid by the bank at which the Blocked Account is maintained (e.g., 1%)?

The parties also are directed to address what will happen if the funds are distributed to LA County (to stop interest running) but later turn out to be payable to Crescent or the bankruptcy estate. Will LA County be subject to a disgorgement order, consistent with any sovereign immunity analysis?

(iv) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying the real estate brokers until those brokers are actually retained. But the tentative ruling is to overrule Crescent's objection to the extent it is seeking to bar paying of any costs of sale, including real estate brokers, until it is paid in full, because those costs are properly chargeable out of Crescent's collateral. See dkt. 110, p.4:5-7; 11 U.S.C. 506(c).

(v) Payment of the portion of Crescent's claim that is not (yet) disputed

Crescent objects that Debtor has had considerable time in which to file any objection to its claim, but has yet to do so, and that the only portion of its claim as to which an objection has been outlined is the default interest. The tentative ruling is that this objection is well taken: not until 2/13/19 did Debtor assert that it would object to Crescent's claim on the additional ground of not fully funding the construction loan. See dkt. 114, p.4, para.7; dkt. 115, p.4:24-26. The tentative ruling is that this last minute suggestion of a possible type of claim objection is insufficient to support Debtor's proposal to withhold all distributions from Crescent.

In other words, the tentative ruling is that Debtor must pay all principal

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and non-default interest through the date of closing of escrow, plus all other charges included in the proof of claim, without prejudice to Crescent seeking additional charges and default interest, and conversely without prejudice to Debtor objecting at a later time to any charges (other than principal and non-default interest). This means that Debtor would have to pay out of escrow not only principal and non-default interest but also any attorney fees, late fees, or other charges included in the Proof of Claim, and Crescent subsequently could seek additional attorney fees and other charges, but Debtor subsequently could object both to any attorney fees and other charges that have already been distributed and to any new attorney fees and other charges.

The foregoing tentative ruling attempts to balance Debtor's broad rights to object to claims at any time against Debtor's unexplained delay in raising these issues, and against Crescent's rights (consistent with this Court's adequate protection order) to receive distributions without undue delay.

Debtor's latest closing statement (dkt. 114, Ex.A, at PDF p.6) lists the "Loan Payoff" as "To Be Determined" but with an (estimated) amount of \$512,500. Crescent is directed to address at the hearing the approximate dollar amount that will comport with the foregoing tentative ruling.

(vi) "Good faith" finding

The tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. See *generally In re M Capital Corp.*,

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290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders. [Judge Bason's posted Procedures, available at www.cacb.uscourts.gov]

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued hearing on the Sale Motion.

(d) Motion for 2004 Examination (the "2004 Motion," dkt. 106)

Grant in part and deny in part as follows. The tentative ruling is to exercise this Court's discretion to limit discovery in keeping with the general principles set forth in Rule 26(b) and 45(d)&(e) (Fed. R. Civ. P.) and Rules 7026, 9016 and 9018 (Fed. R. Bankr. P.). Without limiting the foregoing, this Court is particularly aware that (i) although Debtor has yet to file any actual objection to Crescent's claim, that is clearly contemplated; (ii) Crescent has an interest in maintaining the confidentiality of its loan-analysis methodology; and (iii) Debtor has not shown that it lacks its own records on many of the issues on which it seeks discovery and that the relative burdens and benefits weigh in its favor.

The tentative ruling is that no later than 3/15/19 Crescent must produce the documents listed below (the list is excerpted from the 2004 Motion) and that Crescent's person most knowledgeable about the subject matter of those document requests must appear for examination at Debtor's bankruptcy counsel's law offices on 4/5/19 at 10:00 a.m. The document requests/subject matter that this Court tentatively will allow is as follows:

- (1) "ALL COMMUNICATIONS between YOU and the DEBTOR RELATING TO THE \$500,000 LOAN" (dtk. 106, PDF p.23, Section A.6)
- (2) "ALL DOCUMENTS, including COMMUNICATIONS, RELATING TO YOUR assessment of the default interest rate with respect ot he \$500,000 LOAN" (*Id.* at PDF p.24, Section A.11)
- (3) "ALL DOCUMENTS referring or relating to YOUR calculations of damages that YOU would sustain in the event of any default under the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.17)
- (4) "ALL DOCUMENTS referring or relating to YOUR analysis of the appropriate default interest to apply to the \$500,000 LOAN" (*Id.*

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at PDF p.25, Section B.18)

(5) "ALL DOCUMENTS referring or relating to YOUR efforts to arrive at a default interest rate that was intended to compensate YOU for actual anticipated damages that would result from a default under the \$500,000 LOAN" (*Id.* at PDF p. 25, Section B.22)

(6) "All appraisals or title reports completed RELATING TO the REAL PROPERTY" (*Id.* at PDF p.26, Section B.26)

The tentative ruling is, notwithstanding Debtor's reply (dkt. 117), to sustain Crescent's objections (dkt. 109) to the remaining questions, without prejudice to Debtor seeking further discovery (either under Rule 2004 or under other discovery rules, as appropriate) based upon a proper showing. For example, as noted above Debtor now contemplates that it might object to Crescent's claim based on Crescent not fully funding the construction loan, but Debtor provides no information about the facts and circumstances, which might assist Crescent and this Court to evaluate whether discovery is or is not focused on relevant issues.

Did Crescent promise to fund the loan with no strings attached, or did it impose performance metrics, or was the remaining funding within Crescent's sole discretion? What dollar amount did Crescent refuse to fund? When did it do so? What reasons, if any, did it give? Is Debtor contemplating a breach of contract objection, or a tort claim, or both?

In addition, the tentative ruling is to overrule Crescent's remaining objections as follows:

(i) LBR 2004-1(a): While the conference between Debtor and Crescent may not have been productive (dkt. 109, p.2), this Court is satisfied that for present purposes, the parties have "attempt[ed] to confer" as required by LBR 2004-1(a).

(ii) LBR 9013-1: Although the amount of notice of Debtor's 2004 Motion was short, Crescent has not shown that it was prejudiced by such shortened notice. The tentative ruling is to excuse any untimeliness in the 2004 Motion.

(iii) Laches: Crescent has not alleged sufficient delay to persuade this Court that relief based on laches is appropriate.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

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(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/5/19 at 1:00 p.m., no written status report required

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:
Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). Once again, the bar date order has not been served. But in view of Debtor's substitution of new counsel, the tentative ruling is to set yet another new bar date as set forth below.

(b) Advantage Realty Group Attempted Sale Properties. The parties should be prepared to address the status of any contemplated marketing and sale of properties.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set to 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). The order directs the debtor to serve all parties in interest no later than 7/16/18 but no proof of service appears on the docket. Why not? The tentative ruling is to set a new bar date of 12/7/18 (the debtor should not serve any notice at this time; this Court will prepare and issue the order after the hearing).

(b) Application to Employ Hector Perez/Advantage Realty Group (dkt. 33). There is no tentative ruling, but the parties should be prepared to address (1) the issues raised in the opposition by Crescent Capital Holding LLC (dkt. 45); (2) whether the debtor is seeking to employ Mr. Perez, or Advantage Realty Group, or both; and (3) the absence of Local Form 2014-1 (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov).

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set see above.

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(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/16/18 at 1:00 p.m., *brief* status report due 10/4/18

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18:

Appearances required by counsel for the debtor and by the debtor itself.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 18) and other relevant documents.

(a) Status Report. Debtor used an old form of status report. Judge Bason's current posted procedures require the use of local form F 2081-1.1.C11.STATUS.RPT. Counsel is directed to review Judge Bason's posted procedures and to use the appropriate form status report in future.

(b) Motion for relief from automatic stay. There is no tentative ruling, but the debtor and Crescent Capital Holding LLC should be prepared to address the issues raised in the motion (dkt. 17) and debtor's response (dkt. 21) regarding the Las Flores property, including the previous grant of "in rem" relief against the property, and whether the debtor has provided sufficient evidence of insurance on the property.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 9/14/18 (DO NOT SERVE notice yet - *court will prepare an order after the status conference*).

(b) Plan/Disclosure Statement*: file by 9/28/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

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(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

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2:16-25483 Riverwood Gas and Oil LLC

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#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/29/16, 12/13/16, 1/10/17, 2/7/17, 4/4/17,
5/2/17, 06/13/17, 7/11/17, 8/22/17, 11/14/17,
1/23/18, 02/13/18, 03/06/18, 4/17/18, 5/8/18,
6/26/18, 9/18/18, 10/2/18, 12/4/18, 12/18/18,
1/15/19, 2/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current matters

At the hearing on 10/2/18 this Court heard oral argument on the motion of the Bureau of Land Management ("BLM") to dismiss Debtor's adversary proceeding ("Debtor v. BLM," Adv. No. 2:18-ap-01057-NB). This Court took the matter under submission and continued the various related matters in this case to 12/4/18, and then (for this Court's own scheduling needs) to 12/18/18 (dkt. 167), and then (based on the partial shutdown of the U.S. government) to 2/26/19 (*Debtor v. BLM* adv. dkt. 44, 46).

(a) Current status and tentative rulings

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This Court anticipates, prior to this 2/26/19 hearing, finalizing and issuing a Memorandum Decision granting the BLM's motion to dismiss the *Debtor v. BLM* adversary proceeding, without leave to amend. Based on that ruling, Debtor will not have any interest in the subject leases. The tentative ruling is that this moots the related matters:

(i) Debtor v. Western States Int'l et al.

Debtor's adversary proceeding against other parties in interest that essentially seeks to clear Debtor's title to the leases ("*Debtor v. Western States Int'l, et al.*," Adv. No. 2:17-ap-01326-NB); and

(ii) R/S Motion (dkt. 130)

Ms. Aliet-Gass's motion for relief from the automatic stay to proceed with pending litigation in State Court, in which she essentially seeks to assert the alleged interests of Western States Int'l against Debtor.

Accordingly, the tentative ruling is (x) to stay the foregoing related matters for a period of not less than 14 days after entry of this Court's order dismissing the *Debtor v. BLM* adversary proceeding, (y) if there is an appeal from that order, to extend such stay during the pendency of any appeal and subsequent proceedings on that order, and (z) if there is no appeal, dismiss this bankruptcy case and all pending adversary proceedings and contested matters. This Court will prepare the orders granting the BLM's motion to dismiss and the orders staying the related proceedings.

The parties should be prepared to address whether any additional procedural issues need to be addressed.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 3/26/19 at 2:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no written tentative ruling, but this Court may give oral tentative rulings at the start of the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Continue all matters in this case that are set for today to 10/2/18 at 2:00 p.m., *sua sponte*. Appearances are not required on 9/18/18.

Tentative Ruling for 6/26/18:

Continue (1) the Status Conference and (2) the motion of Ms. Aliet-Gass for relief from the automatic stay to 9/18/18 at 2:00 p.m. to be concurrent with related hearings. Appearances are not required on 6/26/18.

Tentative Ruling for 5/8/18:

This court anticipates posting a tentative ruling at a later time. [NOTE: no tentative ruling was posted]

Tentative Ruling for 4/17/18:

Continue (1) calendar nos. 5, 6 and 7 on today's calendar, and (2) the motion for relief from the automatic stay filed by Ingrid Aliet-Gass for herself and Western States International, Inc. (dkt. 130, the "R/S Motion") all as set forth below. Appearances are not required on 4/17/18.

Specifically, the tentative ruling is as follows:

- (1) Continue (a) the status conference in this bankruptcy case, (b) the

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status conference in adversary proceeding no. 2:17-ap-01326-NB, and (c) the debtor's motion to amend the complaint in that adversary proceeding (adv. dkt. 125, and see adv. dkt. 130, 131, 139, 142) to be concurrent with (d) the motion by the Bureau of Land Management ("BLM") to dismiss the separate adversary proceeding against it (no. 2:18-ap-01057-NB, adv. dkt. 7), which is currently scheduled for 5/8/18 at 2:00 p.m.

(2) Continue the R/S Motion, which is currently set for 5/1/18 at 10:00 a.m., to the same date and time.

After this hearing date this Court will prepare an order continuing all of the foregoing matters and will serve it on the BLM, Aliet-Gass, and Western States International, Inc. at the addresses known to this Court, and that order will also direct the debtor to serve those parties and any other known parties with an interest in the foregoing matters.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: see above.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required.

(1) Current issues.

(a) Default judgment motion - Wilshee (adv. dkt. 140). Deny for lack of service. See dkt. 140 at PDF p.4 (serving defendant at "ENTER ADDRESS HERE").

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(b) Default judgment motion - JNDDC, LLC (adv. dkt. 135). Deny for lack of service. See dkt. 135, last two pages (defendant not listed in service list).

(c) Default judgment motion - Flavio Rodriguez (adv. dkt. 133). Deny for lack of service. See dkt. 133 at PDF p.8 (marked up by someone - movant? - to show deficiencies in completion of proof of service) *and* dkt. 133 last two pages (defendant not listed on service list).

(d) Default judgment motion - Jag Pathirana (adv. dkt. 134). Grant. It appears that plaintiff has abandoned claims against defendant Jag Pathirana other than "clearing title" to the plaintiff/debtor's alleged property interests at issue in the complaint. That appears to moot the relevant concerns previously raised by this court (see adv. dkt. 116, exhibit).

(e) Case status report (case dkt. 122) and adversary proceeding against Bureau of Land Management (Adv. No. 2:18-ap-01057-NB). The debtor should be prepared to provide an update as to the status of these matters.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/10/18 at 2:00 p.m., *brief* status report due 4/3/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves but telephonic appearances are encouraged if advance

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arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status Reports (main case dkt. 122; adv. no. 2:17-ap-01326-NB, dkt. 132). The debtor/plaintiff suggests that it will be filing a motion to approve a disclosure statement. Is that premature, given the following issues?

(b) Motion to amend complaint (adv. dkt. 125). The parties should be prepared to address the issues raised in the motion and in the oppositions filed by the California Department of Conservation, Division of Oil and Gas, and Geothermal Resources ("DOGGR") (adv. dkt. 125, 130, 131).

In addition, the debtor/plaintiff should be prepared to address whether the proposed amended complaint cures the deficiencies in the original complaint, and whether any ruling on the motion to amend the complaint should be deferred until after default judgments are (or are not) obtained on the existing (original) complaint, for the reasons set forth in this Court's Memorialization Of Reasons For Denying Motions For Default Judgments (captioned for the adversary proceeding but erroneously filed in the main case as dkt. 118). See *also* Order denying prior motions for default judgments (adv. dkt. 117) and subsequent Motions for default judgments (adv. dkt. 133, 134, 135).

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: initial date of 7/10/17 (order timely served, dkt. 56, 60, 103, 111, 121, 123); supplemental date of 1/26/18 (order served late, but the tentative ruling is to excuse that lateness, dkt. 107, 110).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/20/18 at 2:00 p.m., status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue the status conferences in both the main case and the adversary proceeding (adv. no. 2:17-ap-01326-NB) to 2/13/18 at 2:00 p.m. with a status report due 2/6/18 (at which time other documents are also due as set forth below) for the reasons set forth below. Appearances are not required on 1/23/18.

(1) Current issues

(a) Reasons for continuance: (i) because of the problems noted below; (ii) because of the debtor's untimely last-minute filing of status reports (the debtor is cautioned that continued untimely filings may result in sanctions); (iii) because of the inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government, (iv) to be concurrent with the (improperly self-calendared) motion to amend the complaint, and (v) in view of the debtor's various status reports (main case dkt. 117, adv. dkt. 122, 127, 129).

(b) Bar date. The debtor's proofs of service of the bar date order are missing exhibits and incomprehensible (see dkt. 110, 111). The debtor is directed to file, no later than 2/6/18, either a corrected proof of service or an application (supported by a declaration) to set yet another supplemental bar date - whichever is appropriate.

(c) Status of existing complaint in adversary proceeding. On 11/20/17 this court issued an order (adv. dkt. 117) denying the plaintiff/debtor's motions for default judgments, without prejudice. The debtor now seeks to amend the complaint (adv. dkt. 125). All of these things moot the motions for default judgments so the hearings on those motions have been vacated.

In addition, the tentative ruling is to memorialize this court's reasons for denying the motions for default judgments by filing on the docket a copy of this court's adopted tentative ruling for the 11/14/17 hearings on those motions (reproduced within the tentative ruling for calendar no. 9. 1/23/18 at 2:00 p.m.).

(d) Motion to amend complaint (adv. dkt. 125). This motion was self-

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calendared for 2:00 p.m. (a time that cannot be used for self-calendaring) on 2/13/18. Nevertheless, the tentative ruling is to permit that motion to proceed at that time.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: initial date of 7/10/17 (order timely served, dkt. 56, 60); supplemental date of 1/26/18, to be served no later than 11/15/17 (per Order, dkt. 107) but proofs of service are incomprehensible (dkt. 110, 111) - see above under "current issues".

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: as set forth above.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the following issues.

(1) Current issues. The debtor has filed a second (very belated) proof of service (dkt. 103) of this court's order (dkt. 56) setting a bar date. Under that order the bar date was set as 7/10/17 and service was required no later than 5/8/17. What does the debtor's belated service do except cause confusion? Does the debtor require a new bar date for previously unknown creditors?

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(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

- (a) Bar date: 7/10/17 (order timely served, dkt. 56, 60; but see above under "current issues").
 - (b) Plan/Disclosure Statement*: TBD.
 - (c) Continued status conference: 1/30/18 at 2:00 p.m., status report due 1/16/18.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/22/17:

The tentative ruling is to dismiss this case with a 180 day bar for willful failure to appear in proper prosecution, as set forth below. See 11 U.S.C. 109(g)(1). Appearances are not required.

Reasons: This case was filed on 11/23/16. The debtor's assets consist of disputed rights in hydrocarbon leases. See Status Report, dkt. 81. Realizing any value from those rights apparently depends on retaining special counsel who will diligently prosecute the debtor's claims. Despite numerous opportunities, the debtor has failed to satisfy the prerequisites for retention of special counsel.

(1) Inadequate declarations about "connections"

At the hearing on 7/11/17 this court extensively reviewed the evidence that would be required before this court could approve the application to employ the latest proposed special counsel, Mr. Montes. That included a requirement of detailed declarations from Mr. and Mrs. Hoats regarding any transfers of any property (including intangible property) involving the debtor and any of them, as well as any other "connections" (as that term is used in Rule 2014, Fed. R. Bankr. P.) to the debtor and any other party in interest.

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This court recognizes that Mr. and Mrs. Hoats are not the professionals whose employment is being sought. Nevertheless, given their very close ties to the debtor, and their failure to disclose connections to the prior proposed special counsel that raised questions about conflicts of interest, this court orally ordered the debtor to provide their declarations at the hearing on 5/2/17. That order has been ignored.

(2) Knudsen factors

This court also directed Mr. Montes to file a declaration addressing the factors that this court must consider in assessing his request to be paid more frequently than once every 120 days. See *In re Knudsen*, 84 B.R. 668, 672-73 (9th Cir. BAP 1988). Mr. Montes has filed such a declaration (dkt. 82) and has adequately summarized the factors (*id.*, p.3:15-23) but he has not adequately addressed the third factor, which he summarizes as: "any funds paid but later disapproved by the court can be recovered from the professional" in one or more of the ways listed in *Knudsen*. (Emphasis added.) Those ways are:

- [a. Holdback] retainer payments are for only a percentage of the amount billed so that the likelihood or necessity of repayment is minimal [Mr. Montes suggests a 10% holdback, which has not been shown to be adequate - the typical amount is 20%, and that typically applies only to well established firms whose ability to repay funds is reinforced by the firm's longevity and reputation or similar considerations];
- [b. Bond] counsel can post a bond covering any possible reassessment [Mr. Montes has not addressed this factor];
- [c. Financial ability to repay] counsel's financial position makes it certain that any reassessment can be repaid [Mr. Montes has not addressed this factor]; [and/or]
- [d. Hold funds in trust account] funds paid prior to allowance are held in a trust account until a final or interim fee allowance is made [Mr. Montes has only offered to place the 10% proposed holdback in a trust account]. [*Knudsen*, 84 B.R. 668, at 672]

(3) The debtor appears to cite the wrong statutory authority

The debtor's application to employ Mr. Montes (dkt. 65) requests that his employment be approved under subsection "(e)" of 11 U.S.C. 327. But that subsection only applies by its terms to an attorney who "has represented the debtor" (*i.e.*, prepetition counsel whose employment is to continue

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postpetition). *Id.* (emphasis added).

That is not the end of the analysis, because it has been held that special counsel can be employed even when such counsel has not represented the debtor prepetition. See *In re Fondiller*, 15 B.R. 890, 892 (9th Cir. BAP 1981) (emphasis added), *appeal dismissed*, 707 F.2d 441 (9th Cir. 1983). Although *Fondiller* has been interpreted as authorizing employment under subsection (e) (see, e.g., *Covenant Fin. Group of Am., Inc.*, 243 B.R. 450, 455 & n. 8 (Bankr. N.D. Ala. 1999)), the precise holding of *Fondiller* appears to be that special counsel can be employed under subsection "(a)" of Section 327 because any "omission" in subsection "(e)" does not limit the general authority in subsection "(a)." See *Fondiller*, 15 B.R. at 891-92 (interpreting § 327(a) by comparison with §§ 327(c) and (e)).

True, the precise statutory authority appears to make little if any practical difference, because *Fondiller* held that when counsel is only employed to perform limited services, then an interest "adverse to the estate" means "an adverse interest relating to the services which are to be performed by that attorney," which appears to mean that the inquiry for proposed special counsel under subsection "(a)" is the same as under subsection "(e)." *Fondiller*, 15 B.R. at 892 (emphasis added). Mr. Montes' declaration (included in dkt. 65) appears to meet this test because he states that he has no adverse interest.

Nevertheless, as stated above this court has required additional evidence from Mr. and Mrs. Hoats and that evidence has not been provided. In addition, because the debtor has sought authority under subsection "(e)" instead of "(a)" it appears not have met the technical requirements for employment of Mr. Montes.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/11/17:

Appearances required.

(1) Current issues

(a) Employment of special counsel. Deny the application to employ the Law Offices of M. Brian McMahon (dkt. 46) because he no longer intends to pursue employment. See dkt. 73, para. 3. Deny the application to employ the

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Law Offices of Mike Montes, Jr. (dkt. 65) due to the failure to address the issues raised by this court in the tentative ruling for 5/2/17 (reproduced below) (without reaching the issues raised by the U.S. Trustee's objection, dkt. 72, and the debtor's reply, dkt. 74). The U.S. Trustee is directed to lodge proposed orders denying each application within seven days after this hearing date.

(b) Lack of progress. Should this case be dismissed for lack of prosecution?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date: 7/10/17 (order timely served, dkt. 56, 60).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/22/17 at 2:00 p.m., status report due 8/15/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/13/17:

Continue to 7/11/17 at 1:00 p.m. to allow the debtor time to prosecute an employment application regarding Mr. Motes (see debtor's case status report, dkt. 62). Appearances are not required on 6/13/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/2/17:

Appearances required. There is no tentative ruling, but the debtor's proposed attorney, Brian McMahon Esq., should be prepared to address the concerns set forth in the U.S. Trustee's objection (dkt. 49) and the other issues set forth below.

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CONT... Riverwood Gas and Oil LLC

Chapter 11

(1) Current issues.

(a) Proposed special counsel.

(i) Background. On 4/5/17 the debtor filed an application for authority to employ the law offices of Mr. McMahon as special counsel under 11 U.S.C. 327(e) (dkt. 47). On 4/12/17 the United States Trustee ("UST") filed an objection to the employment application, which expressed concerns about the payment arrangement proposed in the application (dkt. 49).

The debtor filed a statement of disinterestedness for Mr. McMahon (dkt.53), and a reply (dkt.55), stating that a third party, Ms. Lilian Hoats, will be paying the attorney fees for Mr. McMahon's representation. Ms. Hoats is the CEO of Inviron Technologies, Inc. ("Managing Member"), which is the debtor's managing member (dkt. 55, Ex.1, p.1, recital "b"). Attached to the reply (dkt. 55, Ex.1) is a written document that purports to be a waiver of conflicts (if any exist) among the debtor, Ms. Hoats, and the Managing Member (the "Hoats/Managing Member Conflict Waiver").

The Attorney-Client Retainer Agreement attached to the employment application (dkt. 46, Ex.1) provides that Mr. McMahon is representing not only the debtor but also its affiliates Riverwood Energy, LLC ("Energy Affiliate") and Riverwood Resources Ltd. ("Resources Affiliate"). This court is not aware of the precise organizational and contractual relationships among the debtor, Energy Affiliate, and Resources Affiliate, nor of any written document purporting to be a waiver of conflicts (if any exist) among them.

(ii) Statutory provisions and rules

Although special counsel does not have to be "disinterested" (compare 11 U.S.C. 327(a)), special counsel still must not "represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed." 11 U.S.C. 327(e) (emphasis added). Under Rule 2014 (Fed. R. Bankr. P.) both Mr. McMahon and the debtor were supposed to disclose all connections between Mr. McMahon and "the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee."

The disclosures have not been adequate. This court does not know enough about the underlying litigation and the organizational and contractual relationships among the various entities to assess whether there may be conflicts of interest between the debtor, on the one hand, and Ms. Hoats, Managing Member, Energy Affiliate, and/or Resource Affiliate.

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(iii) A DIP's conflicts generally cannot be waived

Any purported conflict waiver probably cannot waive actual conflicts. See, e.g., *In re Perry*, 194 B.R. 875, 880 (E.D.Cal.1996) (waiver of conflict by non-debtor parties was insufficient and "[i]nformed consent could not be obtained" because "the real parties in interest in this case are the creditors, and that is not a waivable conflict"); *In re B.E.S. Concrete Products, Inc.*, 93 B.R. 228, 235 (Bankr. E.D. Cal. 1988).

But while actual conflicts of interest create a violation of 11 U.S.C. 327 which would require disqualification of the proposed professional, the mere existence of a potential conflict of interest does not require disqualification, and it is up to the court's discretion whether the purported conflict is sufficiently threatening to the estate to warrant disqualification. *In re Wheatfield Business Park, LLC*, 286 B.R. 412, 421 (Bankr. C.D. Cal. 2002).

Are proposed counsel and the debtor aware of any actual conflicts?
How about potential conflicts?

(iv) The purported conflict waiver is incomplete

The Hoats/Managing Member Conflict Waiver is not actually signed by Ms. Hoats in her individual capacity (she has only signed it on behalf of the debtor's Managing Member). In addition, as noted above, this court is not aware of any purported conflict waiver among the debtor and Operating Affiliate or Resources Affiliate.

(v) There might be conflicts among the debtor and Ms. Hoats

A third party who funds a retainer for the debtor (the "Funder") generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, counsel for the debtor and proposed special counsel should be prepared to address the following.

(A) Terms. What are the precise agreements, understandings or expectations regarding the funds -- e.g., are the funds a loan, a gift, an investment, or something else?

(B) Informed consent of Funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the

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sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? Who provided such advice: independent counsel? counsel for the debtor? the debtor's proposed special counsel? Has the Funder given informed consent? Are those things in writing?

(C) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing? Ms. Hoats has signed the Hoats/Managing Member conflict waiver on behalf of the debtor: how can she, acting for the debtor, waive conflicts with herself?

(D) Other considerations. Has proposed special counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Lotus Prop's LP*, 200 B.R. 388 (Bankr. C.D. Cal. 1996) (rejecting *per se* disqualification when fees are paid by third party); and compare *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990) (*per se* rule). See generally *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 5/23/17 at 2:00 p.m., status report due 5/9/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/4/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

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(a) Status report. This court's previous tentative ruling (reproduced below) directed the debtor to file a status report by 3/14/17. Why has no such status report been filed?

(b) Exit strategy. What is the debtor's exit strategy, and what progress has been made toward that goal?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 5/23/17 at 2:00 p.m., status report due 5/9/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/7/17:

Continue to 4/4/17 at 2:00 p.m., status report due 3/14/17. No appearances are required on 2/7/17.

(1) Current issues

This case was filed on 11/23/16. The debtor's status report (dkt. 34) states that the debtor intends to retain special counsel, and the monthly operating reports (dkt. 37, 38) appear to show no activity other than opening DIP bank accounts and paying associated fees. Although progress in this case has been slow, it does not appear efficient to hold a status conference at this time. If substantially more progress is not shown by the next status conference, this court may dismiss this case for failure to appear in proper prosecution. See 11 U.S.C. 109(g)(1), 349.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

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Tentative Ruling for 1/10/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Substitution of attorney. On 12/23/16, the debtor filed a substitution of attorney (dkt. 22) reflecting that current proposed counsel is Giovanni Orantes, Esq. Why has no employment application been filed?

(b) Exit strategy. What is the debtor's exit strategy, and what progress has been made toward that goal?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/13/16:

Appearances required.

(1) Current issues

Counsel for the debtor should be prepared to address why no status report has been filed (see dkt. 3); why the docket does not reflect that anything has been done in this case to date; and why this court should not convert or dismiss this case.

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

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(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves, pursuant to the order setting this status conference (dkt. 3).

(1) Current issues.

(a) First Day Motions. The debtor should be prepared to address the necessity of first day motions such as cash collateral, payroll, utilities, etc. To the extent that those motions are necessary, why have they not yet been filed?

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date*: to be set at the continued status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 12/13/16 at 2:00 p.m., initial status report due 11/29/16.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes

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Luis A Solorzano

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2:16-25483 Riverwood Gas and Oil LLC

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Adv#: 2:17-01326 Riverwood Gas and Oil LLC v. Western States International et al

#2.00 Cont'd Status Conference re: Complaint 1) Breach of Written Contract; 2) Breach of Implied Contract and Fair Dealings; 3) Interfering with Economic Relationship; 4) Slander of Title; 5) Quiet Title; 6) Declaratory Relief
fr. 8/22/17, 11/14/17, 1/23/18, 02/13/18, 03/06/18, 4/17/18, 5/8/18, 6/26/18, 9/18/18, 10/2/18, 12/4/18, 12/18/18, 1/15/19, 2/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/219:

Please see the tentative ruling for the case status conference (calendar no. 1, 4/2/19 at 2:00 p.m.).

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the case status conference (calendar no. 10, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 10/2/18:

Please see the tentative ruling for the case status conference (calendar no. 4, 10/2/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the case status conference (calendar no. 9, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 5/8/18:

Please see the tentative ruling for the case status conference (calendar no. 10, 5/8/18 at 2:00 p.m.).

Tentative Ruling for 4/17/18:

Please see the tentative ruling for the status conference in the main case

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(calendar no. 7, 4/17/18 at 2:00 p.m.).

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Tentative Ruling for 3/6/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 11, 3/6/18 at 2:00 p.m.).

Tentative Ruling for 2/13/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 4, 2/13/18 at 2:00 p.m.).

Tentative Ruling for 1/23/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 8, 1/23/18 at 2:00 p.m.).

Tentative Ruling for 11/14/17:

Appearances required. The tentative ruling is to deny the motions for default judgments, without prejudice, for the reasons set forth below, and to set a continued status conference for 1/30/18 at 2:00 p.m.

On the one hand, there appears to be successful prosecution of this adversary proceeding because, according to the plaintiff's status report (adv. dkt. 92), all of the defendants have either agreed to the requested declaratory relief or have defaulted. On the other hand, there are some fundamental issues that appear to prevent this court from granting default judgments at this time.

(1) Self-calendaring error. The motions for default judgments were only served on 10/27/17. See, e.g., Motion for Default Judgment Derek Wilshee (dkt. 83, 74) (collectively, the "Wilshee Default Motion"). That is insufficient time prior to the hearing, under the applicable rules, nor was there any cover notice of the hearing date and deadline for any opposition or response.

(2) Jurisdictional issues.

(a) Personal jurisdiction. Does the complaint adequately establish personal jurisdiction over each defendant? At least one defendant is alleged to be a resident of Australia (dkt. 1, para. 14), although the plaintiff has voluntarily dismissed claims against that defendant (dkt. 107). Are each of

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the defaulting defendants subject to personal jurisdiction?

(b) Subject matter jurisdiction, and abstention. The complaint and motions for default judgment make somewhat vague assertions of other action(s) that were or are pending in other courts apparently involving the same subject matter, and involving at least preliminary injunctive relief if not other relief. Can this Bankruptcy Court assume jurisdiction over matters that are pending in other courts? Must or should this Bankruptcy Court abstain?

(3) Allegations of wrongdoing. Where is the analysis tying each of the defaulting defendants to one or more of the specific acts of wrongdoing bringing them within the claims in the complaint? For example, the only allegation in the complaint regarding Mr. Wilshee (dkt. 1, para. 14) appears to be that he was at one time an officer of the debtor. How is that an act of wrongdoing?

The Wilshee Default Motion seeks a default judgment against Mr. Wilshee of \$431,472,300.00 (dkt. 74, at PDF p.51 of 53). How is he responsible for such alleged damages? Does the complaint need to be amended to establish, as against one or more of the defaulting defendants, how they are alleged to be liable?

(4) Calculation of damages. An exhibit to the plaintiff's motions for default judgments asserts that "Based on Department of Conservation Records [available on a website and/or verified by whom?], these leases [which leases? the ones that allegedly were supposed to be assigned but were not?] were producing 1730 barrels of Oil a day [when?]" and "[w]ith today's technology [how is today's technology better?], a conservative figure would be 3500 barrels a day [based on whose expert opinion?] that will be used as a figure for all the losses caused by Western States International [how about other defendants?]." Dkt. 83, Ex.A, at PDF p.17 of 53. The same exhibit shows a calculation of alleged damages based on "Approx Production" of "105,000" which is far more than 3500 barrels (perhaps using a 30-day presumptive month multiplied by 3500 barrels a day?), an "Average Oil Price [from what source?]," and a "Cost [to extract, market, refine, deliver, and sell the oil - or some other or different set of things? based on what expert's opinion?]." Based on the foregoing questions, and applying Rule 55(b)(2) (Fed. R. Civ. P.) (incorporated by Rule 7055, Fed. R. Bankr. P.), it appears that additional evidence and a "prove up" hearing will be needed to determine

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the amount of damages, if not other issues.

(5) Alleged costs, attorney fees, and interest. The debtor/plaintiff asserts \$1 million in costs (dkt. 74 at PDF p.51 of 53) - how is that possible? What are the components? Attorney fees are alleged to be \$300,000 - this case has barely commenced, so how is that possible? Where are the daily time sheets and/or other support for this figure? Prejudgment interest is alleged to be at a 10% rate per year starting 1/1/11. What is the contractual or statutory basis for that interest rate and that commencement date? The purported damages were incurred month by month, so how can interest run from before those damages were incurred?

(6) Declaratory relief. The plaintiff makes broad allegations about the rights under various contracts, or arising from breaches of those contracts or by operation of law. Where is the support for these allegations? The plaintiff cannot place the burden on this court to sort through numerous provisions of various contracts to piece together the plaintiff's theory. The plaintiff must provide specific, easy-to-follow analysis and evidence.

(7) Conclusion. Because the motions for default judgments are both procedurally and substantively deficient in all of the ways set forth above, the tentative ruling is to deny them without prejudice.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/22/17:

Appearances required. This court notes that the parties were directed to file a joint status report two weeks in advance of this hearing (dkt. 2), but have not done so. In addition, this court notes that the tentative ruling in the main case status conference (calendar no. 3, 8/22/17 at 2:00 p.m.) is to dismiss the main case, which normally would terminate this adversary proceeding.

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Nevertheless, to preserve all rights in the event that this court were to be persuaded not to dismiss the main case, this court has reviewed the other filed documents and records in this adversary proceeding and issues the following tentative ruling.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below?

(3) Deadlines: This adversary proceeding has been pending since 6/19/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 1/12/18

Expert(s) - deadline for reports: 1/26/18

Expert(s) - discovery cutoff (if different from above): 2/9/18

Dispositive motions to be heard no later than: 3/2/18

Joint Status Report: 11/28/17

Continued status conference: 12/12/17 at 11:00 a.m.

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Trial deadlines to be determined at a later time.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Phoenix Oil Gas Inc.

Pro Se

Longbow LLC.

Represented By
D Max Gardner

Leonard Kroyton

Pro Se

Glenn Morinaka

Pro Se

James Robert Zadko

Pro Se

Michael Smushkevich

Pro Se

David Smushkevich

Pro Se

Paul Guiller

Pro Se

Alex Gendelman

Pro Se

Tatyana Grukina

Pro Se

United Pacific Energy Operations

Pro Se

Charles Ross

Pro Se

Tearlach Resources (California) LTD

Pro Se

Gas and Oil Technologies, Inc.

Pro Se

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Chapter 11

United Pacific Energy Corporation Pro Se

Ingrid Aliet-Gass Pro Se

Western States International Represented By
Mitchell E Rishe

DOES 1 through 10, inclusive Pro Se

Plaintiff(s):

Riverwood Gas and Oil LLC Represented By
Mike Montes

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2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

Adv#: 2:18-01057 Riverwood Gas and Oil LLC v. Bureau of Land Management

#3.00 Cont'd Status Conference re: Complaint for Damages, Declaratory Relief and Injunctive Relief for: (1) Violation of Automatic Stay; and (2) Turnover Under 11 U.S.C. § 542 fr. 05/08/18, 06/26/18, 09/18/18, 10/2/18, 12/4/18, 12/18/18, 1/15/19, 2/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/219:

Please see the tentative ruling for the case status conference (calendar no. 1, 4/2/19 at 2:00 p.m.).

Tentative Ruling for 2/26/19

Please see the tentative ruling for the case status conference (calendar no. 10, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 10/2/18

Please see the tentative ruling for the case status conference (calendar no. 4, 10/2/18 at 2:00 p.m.).

Tentative Ruling for 5/8/18

Please see the tentative ruling for the case status conference (calendar no. 10, 5/8/18 at 2:00 p.m.).

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Bureau of Land Management

Represented By

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Kevin P VanLandingham

Plaintiff(s):

Riverwood Gas and Oil LLC

Represented By
Luis A Solorzano
Giovanni Orantes

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#4.00 Hrg re: Motion For Sale of Property of the Estate under Section 363(b) - No Fee Motion for Order (1) Authorizing Sale of Real Property Free and Clear of All Liens, Claims and Encunbrances Pursuant to 11 U.S.C. sections 363(b) and (f); (2) Approving Buyer as Good-Faith Purchaser Pursuant to 11 U.S.C. section 363(m); and (3) Authorizing Payment of Undisputed Liens and Other Ordinary Costs of Sale

Docket 419

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 6 (4/2/19 at 2:00 p.m.)

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#5.00 Cont'd hrg re: Motion for Relief from Stay [RP]
(2720 Homestead Rd, Suites 210 & 220, Park City UT 84098)
fr. 12/12/17, 02/13/18, 5/22/18, 08/07/18, 10/2/18,
10/26/18, 12/6/18, 2/5/19, 03/05/19

WELLS FARGO BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 143

Tentative Ruling:

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 6 (4/2/19 at 2:00 p.m.)

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield &*

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CONT... **Layfield & Barrett, APC**

Chapter 11

Barrett case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 8/7/18:

Please see the tentative ruling for calendar no. 37, on the 10:00 a.m. calendar, 8/7/18.

Tentative Ruling for 5/22/18:

Please see the tentative ruling for calendar no. 30, on the 10:00 a.m. calendar, 5/22/18.

Tentative Ruling for 2/13/18:

Please see the tentative ruling for calendar no. 26, on the 10:00 a.m. calendar, 2/13/18.

Tentative Ruling for 12/12/17:

Continue to 2/13/17 at 10:00 a.m. Appearances are not required on 12/12/17.

(Same reasons as for calendar no. 10, on the 10:00 a.m. calendar, 12/12/17.)

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Jennifer Witherell Crastz
Jessica Mickelsen Simon

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#6.00 Cont'd Status Conference
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19

Docket 323

Tentative Ruling:

Tentative Ruling for 4/2/19:

Appearances required

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154).)

(2) Matters on Calendar Today

(a) Motion for Sale of Property (dkt. 419)

The tentative ruling is to grant the Motion to Sell Units 210 and 220. If the buyer submits a suitable 363(m) declaration, the Court will approve the buyer as a good-faith purchaser.

Proposed Order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Wells Fargo Relief from Stay Motion (dkt. 143)

Based on the above, the tentative ruling is to continue the Relief from Stay Motion to the next status conference date, see below, until the sale is finalized.

(3) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol

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CONT... **Layfield & Barrett, APC**

Chapter 11

case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

- (a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)
- (b) Lay-Invol Bar date: 4/12/19
- (c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.
- (d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 4/30/19 at 11:00 a.m. to be concurrent with Mr. Layfield's motion to dismiss that case (Lay-Invol. dkt. 207). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 3/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(2) Matters on Calendar Today

(a) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address whether there has been any new information regarding the sale of Units 210 & 220. If there is no progress with a sale, this Court's tentative ruling would be to grant relief from stay as to Units 210 & 220 due to the diminishing equity cushion (dkt. 143). As Unit 200 has been successfully sold, dkt. 144 is moot.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

- (a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)
- (b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until

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CONT...

Layfield & Barrett, APC

Chapter 11

further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/26//19 at 2:00 p.m. to be concurrent with status conferences in the Lay-Invol case and in an adversary proceeding in the L&B case (Adv. No. 19-1315). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 2/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(b) Lay-Invol 341(a) Meeting

The parties should be prepared to address appropriate remedies for Mr. Layfield's failure to appear at the meeting of creditors (11 U.S.C. 341(a)) scheduled for 1/22/19.

(c) Christine Layfield Delaware bankruptcy case

The parties should be prepared to address any effects of the chapter 7 bankruptcy case filed by Mr. Layfield's spouse, as reported by the L&B Chapter 11 Trustee (L&B dkt. 401, p.7). To what extent does the trustee of that bankruptcy estate assert interests in these related cases? Are there discussions regarding any stipulations for relief from the automatic stay, coordination regarding venue of any proceedings, and/or coordinating other matters as between the estates?

(2) Matters on Calendar Today

(a) Motion to Sell 2720 Homestead Rd, Unit 200, Park City Utah (L&B dkt. 391)

The parties should be prepared to address the issues raised by Wells Fargo (L&B dkt. 396) and Toll Creek Owners Association, Inc. (L&B dkt. 397),

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CONT... Layfield & Barrett, APC

Chapter 11

as well as Movant's reply (L&B dkt. 402). In addition, if the objections are resolved or overruled and the sale goes forward (subject to overbids), the tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. See *generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

(b) Wells Fargo Relief from Stay Motions (dkts. 143, 144)

The parties should be prepared to address the issues raised in Wells Fargo's status report (L&B dkt. 399) regarding all of the condominium units. The tentative ruling is to continue the Relief from Stay Motions to 3/5/19 at 2:00 p.m., with a deadline of 2/12/19 for the Trustee to provide Wells Fargo an updated written report describing the listing price(s), showings, and offers for Units 210 and 220. The tentative ruling is also to extend the previously entered orders for filing under seal (L&B dkt. 387, 388) to any brief the parties wish to file in connection with the continued hearing.

(c) Wellgen Standard v. Maximum Legal (17-1503) Status Conference

The parties should be prepared to address the status of the purported settlement of this adversary proceeding.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

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CONT...

Layfield & Barrett, APC

Chapter 11

- (b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.
- (c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), no written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 12/18/18:

Appearances required

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases
This hearing includes Status Conferences in each of the three related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."), (c) *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA").

(2) Matters on Calendar Today

(a) Chapter 7 Trustee's Motion for Order (1) Approving Stipulation Relating to Disbursement of Funds, and (2) Closing Case (Max-CA, dkt. 137)

The tentative ruling is to grant this motion, but the parties should be prepared to address the effect on the pending adversary proceeding entitled *Wellgen Standard LLC v. Maximum Legal (California), LLP et al.* (L&B Case, No. 2:17-bk-19548-NB; Adv. No. 2:17-ap-01503-NB) (the "Wellgen Adv.P.").

On a related matter, as part of case management in the L&B case, the tentative ruling is to continue the Status Conference currently set in the Wellgen Adv.P. from 1/15/19 at 11:00 a.m. to the same date and time as the Status Conferences in the related bankruptcy cases, set forth below.

(b) Final Fee Application of SulmeyerKupetz (Max-CA, dkt. 131)
Grant: \$12,693.52 in fees and \$52.48 expenses.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

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Layfield & Barrett, APC

Chapter 11

- (a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)
- (b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.
- (c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 2/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), with a *brief* status report by the trustees due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

**Tentative Rulings for 12/6/18 and prior:
[OMITTED FOR BREVITY, AND BECAUSE THEY HAVE BEEN LARGERLY
MEMORIALIZED. See, e.g., L&B dkt. 367, 377]**

Party Information

Debtor(s):

Layfield & Barrett, APC	Pro Se
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Movant(s):

Layfield & Barrett, APC	Pro Se
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Trustee(s):

Richard Pachulski (TR)	Represented By Malhar S Pagay James KT Hunter
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2:18-15829 Philip James Layfield

Chapter 7

#7.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 6 (4/2/19 at 2:00 p.m.).

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/18/18:

Please see tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (12/18/18 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the Layfield & Barrett matter (calendar no. 1, 9/18/18 at 2:00 p.m.).

Party Information

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CONT... Philip James Layfield

Chapter 7

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
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10:00 AM

2:14-18995 Alfred Leon Borders

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
vs
DEBTOR

Docket 66

Tentative Ruling:

Grant in substantial part, as set forth below. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does apply

Deny the request for an order confirming that no stay is in effect. Movant has not established an exception to the automatic stay under 11 U.S.C. 362(b) or (c) because Movant checked the box for an order confirming that no stay is in effect, but did not present this Court with any evidence to support that contention.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Debtor's Opposition (dkt. 68) does not dispute that payments have not been made, that Movant has had to pay real estate taxes and other expenses, that Movant's interest in the subject property is not adequately protected, and that after taking into account the principal, interest, costs advanced, and other charges Debtor lacks any equity in the Property and it is not necessary to an effective reorganization.

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

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CONT... Alfred Leon Borders

Chapter 13

Relief notwithstanding future bankruptcy cases ("in rem" relief)

On the one hand, Debtor's Opposition (dkt. 68) appears to present persuasive evidence that the filing of this bankruptcy petition on 5/8/14 was not intended by him, at that time, to hinder, delay, or defraud Movant. Debtor's mother did not die until 8/16/15 (dkt. 66, Ex.10, at PDF p.69; *and* dkt. 68 at PDF p.43); Debtor had yet to inherit any interest in the property; and Movant has not provided evidence that such inheritance or any foreclosure proceedings were reasonably in prospect and were a substantial motivation for Debtor to file the bankruptcy on 5/8/14.

Nor is this Court persuaded by the Reply's arguments (dkt. 69, pp.3:1-4:11) that there was a "scheme" based on the following facts:

(a) No consideration. On the present record, the fact that the transfer to Debtor (and other heirs) was for no consideration appears to be just a natural consequence of being an heir.

(b) Transfer while foreclosure was pending. True, the transfer occurred after Movant's commencement of attempted remedies against the property; but on the present record that timing appears to have been driven by the need to sort out probate matters, not by any scheme to hinder, delay, or defraud Movant.

(c) Transfer in violation of loan documents. Any violation of the loan documents appears to be just a consequence of being an heir, not any intent to hinder, delay, or defraud Movant.

On the other hand, this Court is troubled by the apparent effect of (1) Debtor's failure to amend his bankruptcy schedules and creditor matrix and (2) his apparent failure to provide any other notice to Movant of this bankruptcy case. Are those things sufficient to establish that Debtor took advantage of the fact that he happened to be in a bankruptcy case, with its automatic stay, so that any foreclosure could be delayed or hindered by notifying Movant of this bankruptcy case, just before a foreclosure sale, or at any other time that Debtor and his siblings might choose? In other words, did Debtor retroactively make the filing of his bankruptcy petition part of a larger scheme to hinder, delay, or defraud Movant? If so, then *in rem* relief may be warranted under 11 U.S.C. 362(d)(4) or under other authority. See *In re 4th St. E. Investors, Inc.*, 474 B.R. 709, 711-12 (Bankr. C.D. Cal. 2012). See also *In re Vazquez*, 580 B.R. 526, 532-33 (Bankr. C.D. Cal. 2017).

If this Court is persuaded to grant any type of *in rem* relief, the tentative

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ruling is to provide the usual limitations and opportunity to request reconsideration (e.g., if in a future case a debtor presented evidence that the property was necessary to an effective reorganization, and that Movant could be adequately protected, it might be appropriate to revisit any in rem relief). Specifically, any *in rem* relief would include the following:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alfred Leon Borders

Represented By

Andrew Edward Smyth

Stephen S Smyth

William J Smyth

Movant(s):

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CONT... **Alfred Leon Borders**
United States Department of

Represented By
Elan S Levey

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:17-11589 Thomas Michael Moore

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 63

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 65).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Thomas Michael Moore

Represented By
Eliza Ghanooni

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Austin P Nagel
Emily M Marchino
John Tamburo

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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CONT... Thomas Michael Moore

Chapter 13

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10:00 AM

2:18-16739 Natalie V Howard

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

KENNETH J. FISHER
vs
DEBTOR

Docket 87

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 90).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Natalie V Howard

Represented By
Barry E Borowitz

Movant(s):

Kenneth J Fisher, Trustee of the K.J.

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-17704 Shamika Ossey

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

MTGLQ INVESTORS, LP
vs
DEBTOR

Docket 34

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Shamika Ossey

Represented By
Yelena Gurevich

Movant(s):

MTGLQ Investors, LP

Represented By
Sean C Ferry
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-11129 Sergio G Vasquez

Chapter 13

#5.00 **[CASE DISMISSED ON 3/20/19]**

Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding *future* bankruptcy cases.

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CONT...

Sergio G Vasquez

Chapter 13

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

CONT... Sergio G Vasquez

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sergio G Vasquez

Pro Se

Movant(s):

The Bank Of New York Mellon,

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-11143 Tulia Suarez

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 11

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any

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Los Angeles
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Tuesday, April 9, 2019

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10:00 AM

CONT...

Tulia Suarez

Chapter 13

bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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Los Angeles
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10:00 AM

CONT... Tulia Suarez

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tulia Suarez

Pro Se

Movant(s):

Wilmington Savings Fund Society,

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-11783 Greg Phillips

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

NPI DEBT FUND I, LP
vs
DEBTOR

Docket 12

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

CONT...

Greg Phillips

Chapter 13

any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Greg Phillips

Pro Se

Movant(s):

NPI Debt Fund I, LP

Represented By
Christopher Minier

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

10:00 AM

CONT... Greg Phillips

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-13113 Lekha Shaji

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

CREATIVE INVESTMENT GROUP, INC.
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

CONT...

Lekha Shaji

Chapter 13

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lekha Shaji

Pro Se

Movant(s):

Creative Investment Group, Inc.

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:18-12429 Dana Hollister

Chapter 11

#9.00 Hrg re: Motion for relief from stay [RP]

BOBS, LLC
vs
DEBTOR

Docket 778

*** VACATED *** REASON: Cont'd to April 16, 2019 at 2:00 p.m. [dkt. 784]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#10.00 Hrg re: Motion for relief from stay [PP]

INTERIOR SOLUTIONS OF ARIZONA, LLC
vs
DEBTOR

Docket 417

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Interior solutions of arizona, llc

Represented By
Paul M Brent

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:17-22066 William Charles Arkwright

Chapter 7

#11.00 Hrg re: Motion for relief from stay [PP]

VW CREDIT, INC.
vs
DEBTOR

Docket 51

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

CONT... William Charles Arkwright

Chapter 7

Party Information

Debtor(s):

William Charles Arkwright

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

VW Credit, Inc.

Represented By
Darren J Devlin

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-11240 Jose M. Evora Chinchilla

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

CITIZENS BANK, N.A.
vs
DEBTOR

Docket 11

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

CONT... Jose M. Evora Chinchilla

Chapter 13

Party Information

Debtor(s):

Jose M. Evora Chinchilla

Represented By
Anthony P Cara

Movant(s):

Citizens Bank, N.A.

Represented By
Scott S Weltman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-11526 Jin Chul Park

Chapter 7

#13.00 Hrg re: Motion for relief from stay [PP]

FINANCIAL SERVICE VEHICLE TRUST
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

CONT... Jin Chul Park

Chapter 7

Party Information

Debtor(s):

Jin Chul Park

Represented By
John Asuncion

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:18-24128 Crystal Lashon Overstreet

Chapter 7

#14.00 Hrg re: Motion for relief from stay [UD]

MAXIE JAMES
vs
DEBTOR

Docket 14

Tentative Ruling:

Grant in part and deny in part, as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Movant apparently seeks relief both as to (1) enforcement of her unlawful detainer judgment (dkt. 14, Ex.4) and (2) possession of the condominium unit (eviction/unlawful detainer). The tentative ruling is to deny the former and grant the latter.

(1) Enforcement of judgment

Movant is prohibited from taking any acts to collect the judgment because Debtor has received her discharge (dkt. 17) (11 U.S.C. 524). Movant did not file any adversary proceeding objecting to Debtor's discharge (the deadline was 3/11/19 - see dkt. 2).

(2) Possession of the unit

The automatic stay does not apply as to Movant's attempts to recover possession. Movant obtained a prepetition unlawful detainer judgment, and Debtor has not satisfied the statutory requirements to remain in possession. See 11 U.S.C. 362(b)(22) and (l) and (b). The movant obtained a prepetition eviction judgment and writ of possession. See *In re Perl*, 811 F.3d 1120, 1127-28 (9th Cir. 2016) ("We conclude that under California law, entry of

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Central District of California
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

CONT... **Crystal Lashon Overstreet**

Chapter 7

judgment and a writ of possession following unlawful detainer proceedings extinguishes all other legal and equitable possessory interests in the real property at issue.").

In the alternative and in addition, this court grants relief from the automatic stay as follows with respect to possession of the unit.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Crystal Lashon Overstreet

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

CONT... Crystal Lashon Overstreet

Chapter 7

Movant(s):

Maxie James

Pro Se

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-12656 Leroy Henderson, Jr

Chapter 13

#15.00 Hrg re: Motion for relief from stay [UD]

EDNA BUREMS
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does apply

Deny the request for an order confirming that no stay is in effect. Movant has not established an exception to the automatic stay under 11 U.S.C. 362(b)(22) or (23) because Movant has not obtained a judgment for possession of the property against the debtor and the unlawful detainer action is not based on endangerment of the property or illegal use of controlled substances on the property.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

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10:00 AM

CONT... Leroy Henderson, Jr

Chapter 13

Relief notwithstanding *future* bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because the Movant has not established that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either unauthorized transfers of the property or multiple bankruptcy filings.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Leroy Henderson Jr

Represented By
Kahlil J McAlpin

Movant(s):

Edna Burems

Represented By
Joan M Miller

**United States Bankruptcy Court
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CONT... Leroy Henderson, Jr

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-12692 Alfonso Mares and Sylvia Zaldate

Chapter 13

#16.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 7

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
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CONT... Alfonso Mares and Sylvia Zaldate Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alfonso Mares

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Sylvia Zaldate

Represented By
Jaime A Cuevas Jr.

Movant(s):

Alfonso Mares

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Sylvia Zaldate

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-12972 Jose Antonio Tapia Merino

Chapter 13

#17.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 18

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Jose Antonio Tapia Merino Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Antonio Tapia Merino

Represented By
James Geoffrey Beirne

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:18-18131 Alexander Dela Cruz Del Rosario and Marie Chita-Linda

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 55

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Alexander Dela Cruz Del Rosario

Represented By
Sevan Gorginian

Joint Debtor(s):

Marie Chita-Linda Vergara Del

Represented By
Sevan Gorginian

Movant(s):

JPMORGAN CHASE BANK,

Represented By
Kelsey X Luu
Merdaud Jafarnia
Kennessa C Hartin
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:17-25003 Lydia G Cardenas

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 01/15/19, 03/05/19

WILMINGTON SAVINGS FUND SOCIETY, FSB
VS
DEBTOR

Docket 62

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Lydia G Cardenas

Represented By
Barry E Borowitz
Michael E Clark

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:18-10460 Allyson M Theophile

Chapter 13

#20.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/18/18; 02/05/19

DEUTSCHE BANK NATIONAL TRUST COMPANY
VS
DEBTOR

Docket 47

*** VACATED *** REASON: Voluntary dismissal of motion filed on
2/14/19 [dkt 60]

Tentative Ruling:

Party Information

Debtor(s):

Allyson M Theophile

Represented By
Matthew D. Resnik

Movant(s):

Deutsche Bank National Trust

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:15-26836 Callie Ball

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

VALLEY LOAN PORTFOLIO, LLC
VS
DEBTOR

Docket 48

Tentative Ruling:

Tentative Ruling for 4/9/19 (same as for 3/26/19)

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 50).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Callie Ball

Represented By
Axel H Richter

Movant(s):

Valley Loan Portfolio, LLC

Represented By
Glen Dresser

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

CONT... Callie Ball

Chapter 13

**United States Bankruptcy Court
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Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:18-20086 Jose Mauro Reyes and Maria Teresa Reyes

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

FIRST CITY CREDIT UNION
vs
DEBTOR

Docket 27

Tentative Ruling:

Tentative Ruling for 4/9/19 (same as for 3/26/19)

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 32).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Mauro Reyes

Represented By
Barry E Borowitz

Joint Debtor(s):

Maria Teresa Reyes

Represented By
Barry E Borowitz

Movant(s):

First City Credit Union

Represented By

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Hearing Room 1545

10:00 AM

**CONT... Jose Mauro Reyes and Maria Teresa Reyes
Karel G Rocha**

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19, 03/05/19

US BANK TRUST NATIONAL ASSOCIATION
vs
DEBTOR

Docket 114

Tentative Ruling:

Deny without prejudice, for the reasons stated in the Trustee's opposition (dkt. 135) and the joinder of creditor Michael Madison, Sr. (dkt. 136).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

US Bank Trust US Bank Trust

Represented By
Kristin A Zilberstein

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10:00 AM

CONT... Letitia Louise Wellington

Chapter 7

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

10:00 AM

2:19-10153 Christian Rossil

Chapter 11

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/02/19

LAURA Z. NALVARTE MORENO
VS
DEBTOR

Docket 31

*** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #8 at 1:00 p.m.

Tentative Ruling:

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Laura Z. Nalvarte Moreno

Represented By
Michael F Chekian

**United States Bankruptcy Court
Central District of California
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Tuesday, April 9, 2019

Hearing Room 1545

11:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#1.00 Cont'd hrg re: Motion for Substantive Consolidation of the Estate of the Debtor and Nondebtor Spouse Amos Q. Wellington fr. 6/12/18, 07/17/18, 10/16/18, 03/12/19

Docket 43

Tentative Ruling:

Tentative Ruling for 4/9/19:

Continue this hearing to 5/21/19 at 11:00 a.m. to complete the sale of the property underlying the parties' disputes (see dkt. 86, 94, 98, 100, 114, 135, 136). Appearances are not required on 4/9/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18 (same as for 7/17/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 7/17/18 and 6/12/18 hearings, this Court continued the matter for the parties to explore various options. There is no tentative ruling, but the parties should be prepared to inform the Court about the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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11:00 AM

CONT... Letitia Louise Wellington

Chapter 7

appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the papers (dkt. 43, 56, 57).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

Michael D. Madison Sr.

Represented By
Stella A Havkin

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

**United States Bankruptcy Court
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Tuesday, April 9, 2019

Hearing Room 1545

11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#2.00 Cont'd Status Conference re: Removal
fr. 2/5/19

Docket 1

***** VACATED *** REASON: This matter is scheduled at a different time.
See #13 at 1:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi	Pro Se
Elizabeth Ebuehi	Pro Se
Beta Alpha Holdings, LLC	Pro Se
Olesegun Adenowo	Pro Se
1518 WATERS AVENUE TRUST,	Pro Se
619 WEST GLADSTONE STREET	Pro Se
2551 YORKSHIRE WAY TRUST,	Pro Se
1580 W. 2ND STREET TRUST,	Pro Se
DOES 1 through 100, inclusive	Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
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11:00 AM

CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 9, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#3.00 Hrg re: Motion by non Party Aston Business Solutions, Inc's to Quash Wyndham Vacation Resorts, Inc's Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Bankruptcy Case (Or Adversary Proceeding)

Docket 84

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 4, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#4.00 Cont'd Status Conference re: Complaint to Determine
Nondischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18,
08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19

Docket 1

Tentative Ruling:

Supplemental Tentative Ruling for 4/9/19:

The original tentative ruling (below) provides two inconsistent dates for a continued status conference: 4/30/19 at 11:00 a.m., 4/7/19 at 11:00 a.m. The latter is correct. No status report required.

Tentative Ruling for 4/9/19:

Deny the motion to quash (with the possible exception of one aspect), address procedural issues, and then continue this Status Conference, all as set forth below. Appearances required.

Current issues:

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(b) Motion to Quash (adv. dkt. 84)

The tentative ruling is that the motion to quash (adv. dkt. 84) by Aston Business Solutions, Inc. ("ABS") is unpersuasive, except perhaps for limitations as to time, which the parties are directed to address at the hearing.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(A) Analysis re motion to quash

ABS asserts only vague objections:

(1) Competitors?

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11:00 AM

CONT...

David MacMillan

Chapter 7

ABS asserts that it and Plaintiff are competitors. How so?

The motion does not even disclose ABS' business. Is it a timeshare owner? Is it a timeshare operator? Is it something else? (As noted below, this Court expects that it has gleaned the answer from other documents, but the tentative ruling is that this lack of even such basic information in the motion is fatal to this argument.)

(2) Protected information?

ABS alleges that some sort of trade secrets or other confidential, privileged, or other type of protected information is involved. What sort of information? Why would a traditional privilege log and other tools be inadequate?

ABS complains that parties in interest in this bankruptcy case have shared information. But ABS fails to point to any prohibition on sharing information.

(3) Burden?

ABS alleges that the requested discovery is unduly burdensome. How so? Is it stored in thousands of boxes of paper files that are difficult to reach and review for some reason?

(4) Vagueness and overbreadth?

ABS alleges that the discovery requests are vague and overbroad. How so? ABS fails to provide any explanation or evidence to support this allegations.

(5) Discussion

Based on a question (not an answer) in excerpts from the deposition of ABS' President and shareholder, Glenn Chaffin, ABS may be a marketing company for "timeshare exit companies." Adv. dkt. 84, Ex.1 (Depo. Tr. 1/24/19), p.95:22-23. But how does that make ABS a "competitor" of Plaintiff, with information that would constitute trade secrets, as opposed to a facilitator of (possibly) legitimate ways to exit timeshares, who sends out non-secret flyers and other publicly known marketing materials, and assists timeshare members in navigating contracts that are known to all the parties?

Such a facilitator theoretically could benefit Plaintiff, by replacing non-paying or troubled members with paying ones - unless, of course, ABS engages in acts that improperly interfere with contractual relations or otherwise assists in the wrongdoing of which Plaintiff accuses Defendants. Plaintiff's discovery appears to be targeted at discovering information that could lead to admissible evidence on this and other relevant issues.

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11:00 AM

CONT...

David MacMillan

Chapter 7

Accordingly, the discovery appears to be entirely proper and appropriate, with the possible exception of the movant's request to impose some limitations as to time, which the parties are directed to address at the hearing.

(B) Adversary proceeding status conference issues

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Continued status conference: 4/30/19 at 11:00 a.m., no status report required.

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

This Court has reviewed the latest filed documents in this adversary proceeding, including the parties' status reports (dkt. 89, 91). This Court is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

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Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).

Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).

Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).

Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).

Dispositive motions to be heard no later than: TBD

Joint Status Report: 3/12/19.

Continued status conference: 3/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "Trial Practice")
Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

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Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#5.00 Cont'd Status Conference re: Complaint Objecting
to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Tentative Ruling for 1/30/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address (a) why they failed to file the required status report, (b) why the motions for joint administration/consolidation of the two closely related adversary proceedings have not been prosecuted, and (c) the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final

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judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not formalize the fact that the pending mediation includes this adversary proceeding by issuing an order to mediate this matter together with related adversary proceeding (2:17-ap-01229-NB)? The tentative ruling is to direct counsel for the defendants to lodge a proposed order to that effect.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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Adv#: 2:17-01485 Gonzalez v. Macmillan et al

- #6.00** Cont'd Status Conference re: Complaint for Fraudulent Transfer and Declaratory Relief
fr. 12/5/17, 02/13/18, 3/20/18, 4/17/18, 07/17/18, 08/14/18,
10/16/18, 11/27/18, 12/11/18, 1/29/19, 03/05/19, 3/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Address procedural issues and then continue this Status Conference as set forth below. Appearances required.

Current issues

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 10, 11).

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 3/25/19 (see adv. dkt. 67)

Expert(s) - deadline for reports: 4/3/19 (see adv. dkt. 72)

Expert(s) - discovery cutoff (if different from above): 4/30/19 (see adv. dkt. 72)

Dispositive motions to be heard no later than: 2/28/18 (see adv. dkt. 59)

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Joint Status Report: 4/23/19

Continued status conference: 4/30/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 5/7/19 (see adv. dkt. 72)

Pretrial conference: 5/21/19 at 2:00 p.m. (see adv. dkt. 72)

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 5/7/19 (see adv. dkt. 72) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 5/28/19 at 9:00 a.m. (see adv. dkt. 72)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required. The tentative ruling is to set a trial date as set forth below. The parties should be prepared to address Defendants' request that trial be conducted with live testimony on direct examination, rather than by declaration (see adv. dkt. 70, p.4).

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 10, 11).

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 3/25/19 (see adv. dkt. 67)

Expert(s) - deadline for reports: 3/22/19 (see id.)

Expert(s) - discovery cutoff (if different from above): 3/29/19 (see id.)

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Dispositive motions to be heard no later than: 2/28/18 (see adv. dkt.

59)

Joint Status Report: 4/23/19

Continued status conference: 4/30/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 5/7/19

Pretrial conference: 5/14/19 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 5/21/19 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 5/28/19 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Continue to 3/26/19 at 11:00 a.m., with a brief status report due 3/19/19, based on the parties' status report (adv. dkt. 69), as well as the amended discovery schedule (adv. dkt. 65, 67). At the continued hearing this Court anticipates setting a trial date, and addressing procedures such as whether direct testimony will be by declaration or live (as Defendants request). Appearances are not required on 3/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 12/11/18:

Continue to 1/29/19 at 11:00 a.m., with a brief status report due 1/15/19.
Appearances are not required on 12/11/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Continue to 12/11/18 at 11:00 a.m., per the latest status report (dkt. 56).
Appearances are not required on 11/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required. There is no tentative ruling but the parties should be prepared to address the following issues.

(1) Background

Plaintiff filed a motion (adv. dkt. 14) for summary judgment on his first claim for relief (constructively fraudulent transfer) and the second claim for relief (declaratory relief that the purported trust is ineffective to prevent creditors from reaching the assets) in his complaint (adv. dkt. 1). This Court issued an order (adv. dkt. 31) denying summary judgment on the first claim but granting it on the second, for the reasons stated therein - principally the reasons in the Revised Tentative Ruling for 3/20/18 (reproduced below).

Defendants appealed. The District Court dismissed the appeal as

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interlocutory. See adv. dkt. 52, 53. The parties' joint status report states (adv. dkt. 54, p.4, sec.G) that they have executed but not filed a stipulation "that the dismissed appeal can be re-filed as an interlocutory appeal but on the condition that the trial proceed on the remaining fraudulent transfer claim for relief."

(2) Current issues

It is not clear what the parties intend, or what procedural steps this Court should take. Whatever is in the parties' unfiled stipulation presumably will not bind the District Court (or any other court hearing the appeal) in deciding whether to grant leave to appeal this Court's interlocutory ruling, so what do the parties hope to accomplish with their stipulation? Moreover, the parties' stated intention to proceed simultaneously in both this Bankruptcy Court and the District Court usually is not possible because an appeal generally deprives this court of jurisdiction. Cf. Rule 54(b) (Fed. R. Civ. P., incorporated by Rule 7054, Fed. R. Bankr. P.), and compare Rule 8008 (Fed. R. Bankr. P.). To the extent, if any, that this Court has discretion to grant any relief that would make such dual-tracking possible, is that an appropriate use of judicial resources? On a separate issue, if the plaintiff intends to proceed with the first claim for relief, does the plaintiff plan to amend the complaint to cure the deficiencies in that claim (constructively fraudulent transfer) noted in the tentative ruling for 3/20/18?

The tentative ruling is to continue this status conference to 11/6/18 at 11:00 a.m. with a deadline of 10/23/18 for the parties to file and serve whatever papers they deem appropriate to address the foregoing issues and any other relevant issues at this stage of these proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Continue to 10/16/18 at 11:00 a.m., with a brief status report due 10/2/18.

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See status report (adv. dkt. 51). Appearances are not required on 8/14/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

Continue to 8/14/18 at 11:00 a.m. as requested by the parties in their joint status report (see adv. dkt. 50), with a brief status report due 7/31/18.

Appearances are not required on 7/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). There is no tentative ruling, but the parties should apprise this court about the status of any appeals or other matters (see dkt. 31, order granting in part plaintiff's motion for summary judgment, and dkt. 35, notice of appeal). The tentative ruling is to set a continued status conference for 7/17/18 at 11:00 a.m., with a brief status report due 7/6/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 3/20/18:

Appearances required.

(1) Motion for summary judgment (adv. dkt. 14-18, the "MSJ"); opposition papers (adv. dkt. 22-25); and reply papers (adv. dkt. 26-27). The tentative ruling is to deny in part and grant in part the MSJ, as set forth below.

(a) Legal standards. The legal standards governing motions for summary judgment are well known, do not appear to be disputed by the parties, and need not be repeated in this tentative ruling.

(b) First claim for relief (fraudulent transfer). Although the complaint (adv. dkt. 1) asserts fraudulent transfer claims under both California law and the Bankruptcy Code, the MSJ limits this to 11 U.S.C. 548. The MSJ also asserts only constructive, not actual, fraud. See adv. dkt. 14, pp.2:21-3:1.

The complaint alleges less than reasonably equivalent value (11 U.S.C. 548(a)(1)(B)(i)) - namely, transfers by the debtors/defendants for no value from the debtors and/or their revocable trusts (the assets of which apparently could be reached by creditors) to irrevocable trusts. But to establish the elements of a constructively fraudulent transfer the plaintiff must also establish one of three types of insolvency (commonly referred to as "balance sheet," "inadequate capital," or "cash flow" insolvency) or else a transfer to an insider under an "employment contract." See 11 U.S.C. 548(a)(1)(B)(ii)(I)-(IV). There is no allegation about any employment contract, so the plaintiff must establish some type of insolvency.

The MSJ refers to balance sheet insolvency (11 U.S.C. 101(32A)). But the complaint never alleges that type of insolvency, so the plaintiff cannot be granted partial summary judgment as to that element (11 U.S.C. 548(a)(1)(B)(ii)(I)).

The complaint alleges inadequate capital and inadequate cash flow (in language that roughly parallels 11 U.S.C. 548(a)(1)(B)(ii)(II)&(III)). But the MSJ extrapolates that those types of insolvency could be presumed based on the bankruptcy schedules many months after the transfer, and from the sheer number of lawsuits and eventual judgments against the defendants and other

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circumstantial evidence. Those things might (or might not) be persuasive at trial, but they are insufficient to establish a lack of genuine issue of fact.

(c) Second claim for relief (declaratory relief related to nature of the trusts). The complaint (adv. dkt. 1, para. 23) seeks a declaratory judgment (i) that the debtors/defendants are "beneficiaries" of the trusts within the meaning of California Probate Code 15304, (ii) that the benefits the debtors/defendants receive from the trusts are "property of the estate" under 11 U.S.C. 541, and (iii) that the trusts qualify as "self-settled trusts" under California law, which the MSJ uses as shorthand for a trust the assets of which are reachable by creditors.

Various provisions of the Bankruptcy Code define what property is part of the bankruptcy estate:

The bankruptcy estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). It does not include, however, "any power that the debtor may exercise solely for the benefit of another," 11 U.S.C. § 541(b)(1), nor does it include "[p]roperty in which the debtor holds ... only legal title and not an equitable interest." 11 U.S.C. § 541(d). Similarly, the estate does not include property containing "[a] restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law." 11 U.S.C. § 541(c)(2). [*In re Cutter*, 398 B.R. 6, 18-19 (9th Cir. BAP 2008).]

Under California law:

(a) If the settlor is a beneficiary of a trust created by the settlor and the settlor's interest is subject to a provision restraining the voluntary or involuntary transfer of the settlor's interest, the restraint is invalid against transferees or creditors of the settlor. The invalidity of the restraint on transfer does not affect the validity of the trust.

(b) If the settlor is the beneficiary of a trust created by the settlor and the trust instrument provides that the trustee shall pay income or principal or both for the education or support of the beneficiary or gives the trustee discretion to determine the amount of income or principal or both to be paid to or for the benefit of the settlor, a transferee or creditor of the settlor may

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reach the maximum amount that the trustee could pay to or for the benefit of the settlor under the trust instrument, not exceeding the amount of the settlor's proportionate contribution to the trust. [California Probate Code 15304]

The California Supreme Court has held that to the extent that the settlor of a trust is also a beneficiary, creditors can reach the property held by the trust:

It is against public policy to permit a man to tie up his property in such a way that he can enjoy it but prevent his creditors from reaching it, and where the settlor makes himself a beneficiary of a trust any restraints in the instrument on the involuntary alienation of his interest are invalid and ineffective. Since [the settlor] was the sole beneficiary, all the property in the trust is subject to the claims of his creditors. [*Nelson v. Cal. Trust Co.*, 33 Cal.2d 501, 501-02 (1949) (emphasis added)]

These principles have been more recently reaffirmed in a decision of the Ninth Circuit Court of Appeals:

[U]nder California law, a settlor of a spendthrift trust cannot also act as beneficiary of that trust (*i.e.*, California law prohibits "self-settled" trusts). See Cal. Prob.Code § 15304(a) (West 1987). California law voids self-settled trusts to prevent individuals from placing their property beyond the reach of their creditors while at the same time still reaping the bounties of such property. See *Nelson v. California Trust Co.*, 33 Cal.2d 501, 202 P.2d 1021, 1021 (Cal. 1949). [*In re Moses*, 167 F.3d 470, 473 (9th Cir. 1999)]

In addition, the MSJ cites authority that if beneficiaries exercise "excessive" control over a trust then under California law they cannot "shield that trust with an anti-alienation provision lacking true substance." *In re Moses*, 167 F.3d 470, 473 (9th Cir. 1999) (citation omitted) (emphasis added). See also *In re Cutter*, 398 B.R. 6, 22 (9th Cir. BAP 2008). MSJ (adv. dkt. 14, p.10:1-14).

The debtors argue that their situation is different from that in *Cutter* because "the Debtor in *Cutter* could potentially use all the Trust's principal and income to maintain his standard of living, without limitation" whereas "[t] here is no such provision" in the debtors' trusts. Dkt. 22, p.3:22-26 (italics added to case name). That distinction of *Cutter* (and the other authorities

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cited above) is unpersuasive.

The MSJ points to the following facts in support of its argument that (i) the debtors are also beneficiaries and (ii) the anti-alienation provisions of the trust lack "true substance." The debtor/defendants do not raise any genuine contrary issues of fact.

(i) The debtors deducted mortgage interest and real estate taxes on their 2015 tax returns. See dkt. 18, p.4:5-9 (and evidence cited therein).

(ii) During the "initial period" of the trusts (the earlier of the grantors' deaths or 16 years) the debtors can continue to live in the property rent-free. See Dkt. 18, p.4:10-15 (and evidence cited therein).

(iii) During that same period, any net income or excess cash is distributed to the debtors. See Dkt. 18, p.4:16-21 (and evidence cited therein).

(iv) The debtors can manage the property as "absolute owners." See Dkt. 18, p.4:22-28 (and evidence cited therein).

(v) The debtors can loan money to themselves and/or use the property to secure loans to themselves. See Dkt. 18, p.5:2-7 (and evidence cited therein).

(vi) During their lifetime, the debtors can make discretionary distributions to their children, and upon their deaths the trust assets are to be distributed to their children. See Dkt. 18, p.5:8-12 (and evidence cited therein).

Based on the foregoing, it appears that the debtors are indeed beneficiaries of the trusts to a large extent, and moreover the anti-alienation provisions of the trust lack "true substance" as that term has been used in the cited authorities. Accordingly, the tentative ruling is to grant the MSJ on the second claim for relief.

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. The applicable deadlines are reflected in this court's orders (adv. dkt. 7, 20). The parties should be prepared to address whether there are any non-mooted matters left to resolve in this adversary proceeding, if this Court is not persuaded to depart from the foregoing tentative ruling on the MSJ.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 2/13/18:

Continue this status conference to be concurrent with the hearing on the pending summary judgment motion, which is presently scheduled for 3/20/18 at 11:00 a.m. Appearances are not required on 2/13/18.

This court has reviewed the parties' late-filed joint status report (adv. dkt. 10, 11) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (at the hearing on 12/5/17). See *also* adv. dkt. 10, 11.

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. The applicable deadlines are reflected in this court's orders (adv. dkt. 7, 20).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/5/17:

Appearances required. The court has reviewed the parties' joint status report (dkt. 5) and the other filed documents and records in this adversary proceeding.

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(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

This court recognizes that, at least at this stage, the attorney who filed the answer (dkt. 4) for both trustees of the trust has also executed the Status Report (dkt. 5) on behalf of one of the defendant trustees (the debtor/defendant) asserting that neither of them can consent to this Bankruptcy Court entering a final judgment because third party beneficiaries of the trust allegedly have a right to have their rights litigated "outside of this venue." Counsel for the answering defendants should be prepared (a) to explain whether this is a *Stern* objection or something else and (b) whether both answering defendants or only one of them takes this position, and if the former, why he did not execute the status report on behalf of both of them.

Counsel for the plaintiff should be prepared to address whether the plaintiff contends that there are no additional parties who need to be joined, and why.

(2) Mediation. The plaintiff suggests in the Status Report (adv. dkt. 5) that mediation, if any, should not be ordered before dispositive motion(s) are heard, which the plaintiff anticipates will be by 3/1/18. The tentative ruling is to revisit the issue of mediation after that date.

(3) Deadlines: This adversary proceeding has been pending since 9/26/17.

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Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 3/1/18

Expert(s) - deadline for reports: 2/20/18

Expert(s) - discovery cutoff (if different from above): 3/1/18

Dispositive motions to be heard no later than: 3/13/18

Joint Status Report: 1/30/18

Continued status conference: 2/13/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 4/10/18

Pretrial conference: 4/17/18 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 4/19/18 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 4/23/18 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By

Robert S Altagen

Cynthia B. Martin

Represented By

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Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#7.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Address procedural issues and then continue this status conference as set forth below. Appearances required.

Current issues

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.).

(b) Continued hearing

The tentative ruling is to continue this status conference to 4/30/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required.

The tentative ruling is to continue this status conference to 5/7/19 at 11:00 a.m. with no written status report required prior to that continued date.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

The tentative ruling is (1) to continue this status conference to 3/26/19 at 11:00 a.m., with no written status report required prior to that continued date, and (2) to extend the discovery cut off to 3/15/19 per the parties' Joint Status Report (adv. dkt. 45). Plaintiff is directed to lodge a proposed scheduling order containing this new deadline, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form. Appearances are not required on 2/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's scheduling order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. docket number(s) 23).

(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed

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order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

Reasons: At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The

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following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

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Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By

Robert S Altagen

Cynthia B. Martin

Represented By

Robert S Altagen

Aston Business Solutions, Inc.

Represented By

William H Brownstein

Eric A. Martin

Represented By

William H Brownstein

Glenn J. Chaffin

Represented By

William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

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Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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#8.00 Hrg re: Objection by David MacMillan to Proof of Claim No. 3 Filed on 10/26/2016 by Wyndham Vacation Resorts, Inc.

Docket 310

Tentative Ruling:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

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Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

#9.00 Hrg re: Objection by David MacMillan to Proof of Claim
No. 18 Filed on 03/02/2017 by Americana Vacation
Club and Stardust Vacation Club

Docket 312

Tentative Ruling:

Please see the tentative ruling for the main case status conference (calendar
no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

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#10.00 Status conference re: Procedures

Docket 332

Tentative Ruling:

Appearances required. The parties should be prepared to address the following issues.

Current issues

(a) Procedures

This Court issued its Order Setting Status Conference in All Related Matters (the "Procedures Order," dkt. 332). See *also* dkt. 334 & 338 (proofs of service). Among other things, the Procedures Order was prompted by the following.

First, an exhibit was filed without a cover page and with the exhibit pages out of order rendering the exhibit difficult to read (see dkt. 324, ex. 1). Second, briefs have gone on for 80 pages or more, with whole sections that appear to be at best tangentially related to the subject matter and appear to have been copied and pasted wholesale from other papers (but with no statement to let the reader know if those sections are or are not different in some way). See dkt. 326, 330. Third, those same papers, with exhibits included, are over 2000 pages long. Fourth, some papers appear to raise frivolous arguments (see below).

The tentative ruling is as follows with respect to procedures in all of the adversary proceedings and contested matters in these related bankruptcy cases:

(i) Page limits. Set a limit of 25 pages for any brief, and 50 pages of attached or accompanying documents, absent prior authorization to exceed those limits. The documents can be excerpts, marked up to point the reader to the relevant phrase or item, provided that (x) any original markings on the documents are clearly distinguishable from any added markings and (y) upon request full copies of all exhibits are immediately made available to all other parties and this Court.

(ii) Incorporation by reference. Direct all parties, rather than

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repeating their arguments and exhibits, to incorporate them by reference. In addition, to the extent any material does not exactly repeat prior material, but parallels prior material in substantial part, the tentative ruling is that the party must explain what is new or different.

For example, instead of a 10-page recitation of background facts in which one sentence is different, the party would replace those 10 pages with that one sentence and a brief summary of the relevant aspects of the prior material, with a cross-reference to the docket number of the material that is incorporated by reference. Alternatively, if the approach in the immediately preceding sentence would not be practical or would be confusing in any particular situation, then the party would add a footnote both at the start of the factual summary and at the start of the new or different sentence, to alert the reader that this is the portion that is new or different. Alternatively, the party could adopt any other suitable method for highlighting new or different material. In any event, all parties are directed to use whatever method is most reader-friendly for presenting accurate, relevant material.

(iii) Bifurcating or combining any matters, and issuing judgments on partial findings and/or final judgments on fewer than all claims or parties. The claim objections that are set for hearing today violate at least the spirit, and probably the letter, of Rule 3007(b) (Fed. R. Bankr. P.) ("A party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding."). In any event, any future claim objections involving the same nucleus of operative facts as any pending adversary proceeding must be raised through proper pleadings or motions in those adversary proceedings, not by separate claim objections.

In addition, there is no reason to litigate all of the numerous issues raised by the parties if it appears that it would be more efficient to litigate just one or two issues first, and enter judgements on partial findings, and/or enter final judgments as to fewer than all claims or parties (based on any express determination that there is "no just reason for delay") (Rules 52 & 54(b), Fed. R. Civ. P., incorporated by Rules 7052, 7054 & 9014(c), Fed. R. Bankr. P.).

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For example, if a hypothetical chapter 7 debtor were accused of dozens of acts and omissions that could warrant either nondischargeability of individual claims (11 U.S.C. 523) or denial of the entire discharge (11 U.S.C. 727), there might be no just reason not to enter a judgment determining a single issue, after bifurcation so as to have a separate trial on that issue. In this situation the single issue might be whether the hypothetical debtor had concealed or failed to maintain adequate recorded information (under section 727(a)(3)), which, if proven, presumably would moot the other issues under sections 523 and 727.

The parties are directed to address whether this Court should adopt such procedures for one or more issues in these cases and the related adversary proceedings and contested matters, or conversely whether this Court should combine various matters for joint hearings or trials. See Rule 42 (Fed. R. Civ. P., incorporated by Rules 7042 & 9014(c), Fed. R. Bankr. P.).

(iv) Testimony by declaration. Direct testimony must be presented by declaration, subject to live cross-examination and redirect (see Rule 611(a); *In re Gergely*, 110 F.3d 1448, 1451-52 (9th Cir. 1997); *In re Adair*, 965 F.2d 777, 779-80 (9th Cir. 1992)).

(v) Time limits. The parties are hereby put on notice that this Court at any time may limit their time for oral argument and presentation of their case. In addition, the parties are directed to address whether they would prefer that this Court impose such limits at this time, or at any pretrial conferences, or on the first day of trial, or during trial. See *generally*, Hon. Barry Russell, 2 *Bankr. Evid. Manual* (2018-19 Ed., Nov. 2018) 611:1, Examples 6&7).

(b) Objection by individual Debtors to Proof of Claim ("POC") No. 3 (dkt. 310)

Overrule the objection to POC No. 3, filed by Wyndham Vacation Resort, Inc ("Wyndham"), for the reasons stated in Wyndham's opposition (dkt. 326), and for the following additional reasons.

First, POC No. 3 has sufficient documentation and other information to establish its *prima facie* validity. Second, any lack of *prima facie* validity is not enough to disallow the claim under 11 U.S.C. 502. See *In re Orozco*, 2017 WL 3126797 (Case No. 2:13-bk-15745-NB, dkt. 132), and *In re Beoglyan*

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(Case No. 2:13-bk-22883-NB, dkt. 141).

The cases cited by Mr. MacMillan (dkt. 310, pp.2:28-3:1) are distinguishable or actually contrary to his position. See *In re Garner*, 246 B.R. 617 (9th Cir. BAP 2000) (when claim did have *prima facie* validity, opposition did not overcome that *prima facie* validity); and see *In re Stoecker*, 5 F.3d 1022, 1027-28 (7th Cir. 1993) (reversing disallowance of claim based on non-compliance with Rule 3001(f)); *In re Brunson*, 486 B.R. 759, 765-66, and 768-73 (Bankr. ND Tex. 2013) ("This court adheres to the majority view that a proof of claim may not be disallowed where the sole basis of objection is the creditor's failure to attach sufficient documentation under Bankruptcy Rule 3001") (emphasis added).

Indeed, as noted in *Brunson*, the 2011 amendments to "Bankruptcy Rule 3001(c)(2)(D), together with the Advisory Committee Note shedding light on its meaning, should end the debate." *Id.*, p.770 (emphasis added). Now it is clear that "[f]ailure to provide the required information does not itself constitute a ground for disallowance of a claim." *Id.* (quoting advisory committee note; emphasis added).

In view of the foregoing, the tentative ruling is that this objection to POC No. 3 is frivolous.

(c) Objection by individual Debtors to POC No. 18 (dkt. 312)

Overrule the objection to Americana Vacation Club and Stardust Vacation Club's ("Americana/Stardust") POC for the reasons stated in Americana/Stardust's opposition (dkt. 320) and for the same reasons as stated above in connection with POC No. 3. Debtors' Reply (dkt. 341) does not adequately address those reasons.

In view of the foregoing, the tentative ruling is that this objection to POC No. 18 is frivolous.

(d) Motion by individual Debtors to Dismiss bankruptcy case of Attitude Marketing, Inc. ("Attitude") (the "MTD," dkt. 307)

The tentative ruling is to deny the individual Debtors' MTD for the reasons stated in the Chapter 7 Trustee's opposition (dkt. 325) to the MTD, and for the following additional reasons.

As the Trustee notes, in this circuit a voluntary Chapter 7 debtor is entitled to dismissal of the case so long as such dismissal will cause no "plain legal prejudice" to interested parties, or perhaps just "legal prejudice" (without

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the "plain" modifier). *In re Leach*, 130 B.R. 855, 857 (9th Cir. BAP 1991) (citing pre-Bankruptcy Code case of *In re International Airport Inn Partnership*, 517 F.2d 510, 512 (9th Cir. 1975), and addressing how its principles should be applied under the Bankruptcy Code). The tentative ruling is that dismissal very much would cause plain legal prejudice to interested parties because dismissal would preclude the Trustee and creditors from using the bankruptcy process and powers (i) to investigate past and present alleged misconduct, (ii) to prevent acts and omissions for which there are grounds to be concerned, and which can drain the value of a potentially valuable asset of this bankruptcy estate, and (iii) to identify and recover any avoidable transfers.

Investigating all of these things is made all the more important by the allegations of a long history of Debtors purportedly evading judgments, settlement obligations, etc. Whether those allegations are accurate or not is an issue on which Debtors will have every legitimate opportunity to present arguments and evidence; but the tentative ruling is that they cannot avoid the determination of those bankruptcy-focused issues by obtaining a dismissal of their bankruptcy case.

Debtor's motion and reply papers (dkt. 339, 340) do not adequately address any of the foregoing, nor do they establish any reason why this Court would not recognize the Trustee's authority to file the bankruptcy petition pursuant to the Written Consent Of Shareholders In Lieu Of Meeting and the Written Consent Of Sole Director In Lieu Of Meeting attached to the Trustee's Opposition as Exhibit A (dkt. 325). The arguments attempting to dispute the Trustee's business judgment in causing Attitude's bankruptcy petition to be filed, or in filling out Attitude's bankruptcy schedules, or in administering Attitude's assets, are unpersuasive and unsupported by any meaningful evidence. The individual Debtors' flat denials of the claims against Attitude, without persuasive or even colorable arguments or evidence, are insufficient.

The tentative ruling is that the individual Debtors' arguments are frivolous. In any event, the paucity of those arguments only reinforces the need for the Trustee to take over management of Attitude.

Proposed orders: The Trustee and the Claimants are directed to lodge proposed orders on each of the foregoing matters "(1)(b)," "(c)," and "(d)" via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any

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changes ordered at the hearing. See LBR 9021-1(b)(1)(B). This Court will prepare an order on matter "(1)(a)."

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

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#11.00 Cont'd hrg re: Motion to dismiss Attitude Marketing Inc.
- (Case# 2:19-bk-10552-NB)
fr. 4/2/19

Docket 307

Tentative Ruling:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Movant(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#12.00 Status conference re: Procedures

Docket 43

Tentative Ruling:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will

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include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate declaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which

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declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all

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of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales

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of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the

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commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s)

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themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.*, were the premises vacated as of 2/20/19? when were the

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landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#2.00 Hrg re: Application to Employ Margulies Faith LLP
as General Bankruptcy Counsel Pursuant To
11 U.S.C. §§ 327(A) And 330

Docket 83

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 1,
4/9/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

1:00 PM

2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#3.00 Cont'd hrg re: Motion for Extension of Time to
File a Complaint Objecting to Discharge
fr. 2/26/19, 3/26/19

Docket 53

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (calendar no. 4, 4/9/19 at 1:00 p.m.).

Tentative Ruling for 3/26/19:

Please see tentative ruling in status conference (calendar no. 14, 3/26/19 at 1:00 p.m.).

Tentative Ruling for 2/26/19:

Please see tentative ruling in status conference (calendar no. 4, 2/26/19 at 1:00 p.m.).

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

1:00 PM

2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19. 3/26/19

Docket 7

Tentative Ruling:

Tentative Ruling for 4/9/19:

This status conference has been set pursuant to this Court's order (dkt. 6) and notice thereof (dkt. 14), pursuant to which status conferences are held concurrent with any other calendared proceeding. Appearances are not required on 4/9/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Grant, with an extension of the deadline for Mazakoda Inc to file a complaint objecting to dischargeability to 4/30/19. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). At the hearing on 3/26/19, counsel for Mazakoda appeared and informed this Court that it opposed the tentative ruling denying the motion for lack of prosecution, and that it had just received the recording/transcript on 3/22/19. Although Debtors' counsel was not notified of Mazakoda's intent to contest the tentative ruling (as required by the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov), this Court was persuaded to continue this matter, as permissible under those same procedures. Mazakoda has now supplemented the Motion (dkt. 74), and based on that supplement the tentative ruling is that it is appropriate to extend the deadline.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report

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CONT...

Edmond Melamed and Rozita Melamed
due on 4/23/19.

Chapter 11

**Warning:* special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Deny for lack of prosecution. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). It has now had time to do so, and has not supplemented its motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

**Warning:* special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Edmond Melamed and Rozita Melamed

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Continue as set forth below. Appearances are not required on 2/26/19.

(1) Current issues

Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Until the transcript is received for the meeting of creditors (11 U.S.C. 341(a)), it is difficult to assess the issues raised in the opposition (dkt. 63) and reply (dkt. 64). The tentative ruling is to continue this hearing to the same time as the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required.

(1) Current issues

(a) Mazakoda, Inc's Objections to Debtor's Claimed Exemptions (dkt. 45)

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CONT...

Edmond Melamed and Rozita Melamed

Chapter 11

The tentative ruling is to set the Objection to Exemptions for hearing on 2/26/19 at 1:00 p.m. (to be concurrent with the motion to extend the deadline to object to Debtors' discharge) with the usual deadlines for any opposition and reply.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 2/1/19.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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1:00 PM

2:18-16114 Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/26/18, 08/14/18, 10/16/18, 11/27/18, 12/11/18,
1/29/19, 2/26/19

Docket 6

Tentative Ruling:

Tentative Ruling for 4/9/19:

Appearances are not required on 4/9/19. Continue as set forth below.

(1) Current issues

(a) This Court has reviewed the Debtors' latest filed documents, including its Monthly Operating Report (dkt. 81) and Status Report (dkt. 82). Pending the receipt of the final closing statement, counsel's fee application, and Debtors' future motion to dismiss, this Court is unaware of any issues requiring a status conference at this time.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/21/19 at 1:00 p.m. Status report due 5/14/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances are not required. Continue as set forth below.

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CONT... Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

(1) Current issues

(a) This Court has reviewed the Debtors' latest filed documents, including its Monthly Operating Report (dkt. 80) and Status Report (dkt. 79). This Court is not aware of issues that would warrant a status conference at this time.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 4/9/19 at 1:00 p.m. Status report due 4/2/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/18:

Appearances are not required.

(1) Current issues

(a) Motion to Refinance (dkt. 68). Grant, subject to the conditions in Citibank's Non-Opposition (dkt. 74) and subject to any proposed payment of debtors' attorney fees being held in a trust account with no distributions absent further order of this Court.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

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CONT...

Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

(c) Continued status conference: 2/26/19 at 1:00 p.m. Status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to Use Cash Collateral (dkt. 57). Withdrawn (dkt. 69).

(b) Proposed refinance. The refinance motion (dkt. 68) was not filed until 12/3/18 - almost half a year after this case was filed: why was it not filed sooner? The motion fails to include the mandatory notice of hearing, objection deadlines, etc. The motion contemplates that the sale will close in January of 2019, but it lists a hearing date of 1/29/19 at 1:00 p.m., which would give almost no leeway to close in January after the hearing: why was the hearing self-calendared so far out? The motion admits that the payoff amounts will increase by then: will the refinance provide sufficient funds to pay all liens in full? The escrow statement contemplates a payment of \$30,000 to Debtors' counsel: any such payment must be held in a trust account unless and until approved by this Court. The tentative ruling is to continue this status conference for one week to see if these issues have been corrected, with a warning to counsel for Debtors that there likely will be consequences to his continued disregard for the rules and procedures of this Court, including a reduction in fees.

(2) Dates/Deadlines. This case was filed on 5/28/18.

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Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 12/18/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to Use Cash Collateral. Grant on an interim basis, as set forth in the tentative ruling in calendar no. 11 (11/27/18 at 1:00 p.m.).

(b) Proposed refinance. At the status conference on 10/16/18, Debtors' counsel anticipated filing a motion for a refinance very shortly thereafter, and the tentative ruling for that date set forth various items that Debtor would need to address. No such motion is on the docket. The refinance motion was supposed to supersede the proposed plan and disclosure statement, and as noted in the tentative ruling for 10/16/18 those documents are incomplete and confused. See *also* dkt. 65 (objection of Ditech Fin. LLC). Are debtors and their counsel properly prosecuting this case?

The tentative ruling is to continue this Status Conference with a warning to Debtors and their counsel that if they do not prosecute this case then it likely will be dismissed with a bar against being a debtor again, or converted to chapter 7, or this Court may impose other remedies.

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(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 1/15/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed debtor's status report (dkt. 50) and other relevant pleadings.

(a) Plan (dkt. 47) and Disclosure Statement (dkt. 48). These documents are incomplete and confused. But the tentative ruling is that there is no need to proceed with these documents if Debtors are going to proceed with a proper motion to refinance and pay all creditors in full (as stated in their status report).

(b) Proposed refinance. The claims register lists total claims for \$419,929.77 as of the petition date (of which \$366,270.15 are listed as secured and \$150.29 as priority). The proposed refinance would generate loan proceeds of \$463,000. This appears to be sufficient to pay all claims, probably including postpetition interest, although perhaps not including 100% of asserted administrative expenses. Counsel for the debtor should be prepared to address (i) the form of motion he intends to file, (ii) whether that motion will seek authority to pay unsecured claims, and (iii) whether unsecured claims will be paid out of escrow or by some other means and, if

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the latter, who will hold the net proceeds after payment of secured claims.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Continue to the date and time set forth below. Appearances are not required on 8/14/18.

(1) Current issues. This Court has reviewed debtor's status report (dkt. 38) and other relevant pleadings.

(a) This Court does not have any issues to raise *sua sponte*.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: file by 9/25/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for

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Chapter 11

such objections are established).

(c) Continued status conference: 10/16/18 at 1:00 p.m. *Brief* status report due 10/2/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

Appearances required by counsel for the debtor and by the debtor themselves.

(1) Current issues. This Court has reviewed the debtors' status report (dkt. 14), and the other filed documents and records in this case.

(a) May MOR (dkt. 18). The MOR purports to cover the period from 5/28/18 (the petition date) to 5/31/18, but is essentially blank, including the section for disclosure of existing insurance coverage (dkt. 18, pdf p. 5). Debtors should be prepared to address (i) whether they have insurance coverage on their residential real property (and any other asset requiring insurance); and, if they do (ii) whether they read the MOR and understood it prior to signing.

(b) Case Status Report (dkt. 14).

(i) Budget Motion. The status report says that a budget motion is not required by Judge Bason's procedures (dkt. 14, pdf p. 3), but that is not correct. See Judge Bason's Procedures, Section VII.F ("Judge Bason requires the use of local forms F 2081-2.2.MOTION.BUDGET and F 2081-2.2.ORDER.BUDGET"). Did counsel actually review the posted procedures? The tentative ruling is to set a deadline of 6/28/18 to file and serve a budget motion.

(ii) Consumers' confidential information. The status report states that the debtors do not have possession, custody, or control of

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consumers' confidential information (dkt. 14, pdf p. 10), but this Court questions whether that is accurate. What about customer lists from Hey Baby Sales, Inc.? Do the debtors claim any rights to those lists? (e.g. if the case were converted to a chapter 7 case, a sale of the debtors' interest in the company took place, and the buyer wanted the customer lists, would the debtors agree they could not retain or use the lists because the lists are owned by the company?).

The debtors should be prepared to address what steps they will take to protect confidential consumer information, and whether a consumer privacy ombudsman is required (11 U.S.C. 332).

(2) Deadlines/dates. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/25/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/14/18 at 1:00 p.m., *brief* status report due 7/31/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricardo Edmundo Lengua

Represented By
John A Harbin

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Chapter 11

Joint Debtor(s):

Pamela Lorraine Lengua

Represented By
John A Harbin

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2:18-22059 JDS Hospitality Group LLC

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/17/18, 10/23/18, 11/27/18, 01/08/19, 2/5/19,
03/05/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Continue as set forth below. Appearances are not required on 4/9/19.

(1) Current issues

This Court has reviewed Debtor's latest filed documents, including its Monthly Operating Report (dkt. 95) and Status Report (dkt. 101). This Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 5/21/19 at 1:00 p.m., *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues

(a) Finances (Decl. dkt. 84; MOR #4, Jan. 2018, dkt. 86; Decl. dkt. 87; Status Report, dkt. 92, Ex.1)

The parties should be prepared to address whether Debtor's efforts to restore online travel service arrangements were adequate.

(b) Cash infusions (Decl. dkt. 84)

This Court has reviewed the supplemental declaration of Rhonda Chung and is satisfied that this Court's concerns from the 2/5/19 hearing re cash infusions have been adequately addressed.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/9/19 at 1:00 p.m., *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #3, Dec. 2018, dkt. 71; Decl. dkt. 75)

Debtor's recently reported finances are dismal, as noted in the tentative ruling for 1/8/19. It appears that Debtor's occupancy rate is less than half of what was projected (which is itself less than half of available rooms), and that

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Debtor is failing to pay some franchise fees, utilities, housekeeping expenses, and other items.

Debtor blames outages in its online booking services, but as noted in the limited opposition to extending exclusivity (dkt. 78) filed by First Choice Bank, Debtor's behavior in the face of problems with online booking is puzzling. Why did Debtor not proactively contact the online booking agencies around the time it filed its bankruptcy petition? Why did Debtor not monitor its own finances sufficiently to realize that those agencies had not been paid? Debtor asserts that it was given no advance notice, but that seems highly unusual, so where is evidence of the telephone calls, emails, and letters immediately reacting, objecting to being cut off with no prior notice, and offering immediate payment of any missed bills? This Court takes judicial notice that the booking agencies are large enough to be familiar names, and presumably they have experienced hotel bankruptcies before, so what reasons did they give for their alleged lack of notice and over-reaction? As the bank suggests, the outages in booking were long enough that one would expect Debtor to have made repeated and considerable efforts to resolve the situation, possibly including meetings in person, but there is no evidence of that.

All of the foregoing suggests "gross mismanagement" of the estate, which is one possible basis to dismiss or convert this case. 11 U.S.C. 1112(b)(4)(B). The facts recited above also appear to constitute a "substantial" loss or diminution of the estate, and calls into question whether there is a "reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(A). In addition, these facts call into question whether Debtor will be able to meet the feasibility test for any proposed plan. 11 U.S.C. 1129(a)(11).

The parties are directed to address whether this case should be dismissed or converted.

(b) Alleged infusions

There have been promises during this case that cash infusions would be made by Debtor's principal, Rhonda Chung. The Status Report (dkt. 79, p.4:8-21) alludes to some, but the precise dollars amounts are generally unclear, as are the dates, and precisely how those dollars been used. The tentative ruling is to set a deadline of 2/12/19 (if this case is not dismissed) for Ms. Chung to file a declaration, with attached evidence, addressing each of these things.

(c) Employment of bankruptcy counsel (dkt. 47, 51, 56, 67, 68, 71)

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Have the objections of the United States Trustee (dkt. 51) been resolved?

(c) Motion to Extend Exclusivity Periods (dkt. 73)

Debtor is directed to addressing the issues raised by First Choice Bank's Opposition (dkt. 78).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Debtor's status report (dkt. 72) attempts to put the best face on a dismal record of recent operations. Should this Court set deadlines to sell the estate's property/business, or impose other performance metrics and establish consequences for failure to satisfy those metrics?

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status

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report due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required.

(1) Current issues

(a) Cash collateral motion (dkt. 4). This Court has reviewed the supplemental declarations of Kenneth Chung and Rhonda Chung (dkt. 38). Those declarations provide that in the event Debtor lacks the funds necessary to make the required property tax payments, Rhonda Chung will "personally pay any short fall [o]f the Debtor to pay these taxes or, any portion of those taxes, if any, that has not otherwise been approved by the Court as an authorized Cash Collateral expense." (Rhonda Chung decl, para. 7). Would these funds be a loan or a gift? Is Rhonda Chung financially able to provide such a sum?

(b) Creditor First Choice Bank reporting requests: In its opposition to the cash collatera motion, First Choice Bank requests that Debtor be required to provide additional reporting to insure cash collateral is not misused (dkt. 58). Does Debtor object to any of these recommendations? If so, on what grounds?

(c) Order on cash collateral. Debtor is directed to lodge a proposed final order approving the use of cash collateral, incorporating the terms of the interim order plus any additional requirements as noted above, via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Utility motion. Debtor's status report (dkt. 49) states that this motion will be withdraw, either orally or in writing. Debtor should file a written withdrawal, so that the docket is clear.

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(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/15/19 at 1:00 p.m., with a brief status report due 1/8/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/23/18:

Appearances required.

(1) Current issues

(a) Cash collateral motion (dkt.4). Subject to any objections at the hearing, the tentative ruling is to authorize the use of cash collateral to a limited extent, on a further interim basis, with a final hearing at the same time as the continued status conference (see below). What specific use of cash is authorized will depend on any supplement filed prior to the hearing and how the debtor and other parties in interest address the following issues: (i) payment of employment taxes and other withholdings, (ii) payment of income taxes, (iii) payment of sales taxes on room rentals, as well as on food, beverages, and other taxable items, and (iv) adequacy of cash flow, both actual and projected.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

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(c) Continued status conference: 11/27/18 at 1:00 p.m., with a status report on the local form due 11/13/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/17/18:
Appearances required.

(1) Current issues

(a) Payroll motion (dkt. 5). As noted in this Court's order setting this hearing (dkt. 10), this Court is concerned about whether this is a self-created emergency. In addition, the parties should be prepared to address the jobs of each person who is proposed to be paid (dkt. 7, Ex.6), whether any of them are "insiders" (11 U.S.C. 101(31)), and how they will be paid if the checks do not clear and other sources of revenue do not come through. Subject to adequately addressing those issues, and (1) confirming notice per this Court's order shortening time (dkt. 10), (2) addressing this Court's concerns in that order, and (3) any objections at the hearing, the tentative ruling is to grant this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt.4). The tentative ruling is to grant this motion, subject to the caveats set forth in the tentative ruling for calendar no. 2 (10/17/18 at 9:00 a.m.).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., *brief* status report due 11/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang

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#7.00 Cont'd hrg re: Motion to Sell Property of the Estate Free and Clear of Liens Under Section 363(f) fr. 04/02/19

Docket 23

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the status conference (calendar no. 9, 4/9/19 at 1:00 p.m.).

Tentative Ruling for 4/2/19:

Appearances required. The tentative ruling is to deny the motion unless all the issues set forth below are resolved, and if that occurs, or is reliably promised, then continue the motion to 4/30/19 at 1:00 p.m. with a deadline of 4/9/19 for Debtor to file and serve an amended motion on all creditors via U.S. mail.

The tentative ruling is to require the following:

- (a) Overbidding: Debtor must amend the overbidding procedures to address the concerns raised in the objection filed by the United States Trustee ("UST") (dkt. 39);
- (b) Rent: Debtor must satisfactorily address whether the tenant/proposed buyer is being forgiven rent and, if not, what steps are being taken to recover the missing rent payments (*id.*);
- (c) Receipt of deposits: Debtor must provide an offer of proof regarding the proposed buyer's deposits (*id.*);
- (d) Withholdings, and use of net proceeds: Debtor must provide that the sale free and clear of liens will result in Debtor holding only an approximation of the disputed portion of those liens, and the withheld portion must be specified in the motion and must be a reasonable amount; and Debtor must address what assurances will be provided that the net proceeds of sale will be held or will only be used for purposes that are authorized by this Court (*e.g.*, will all net proceeds be held in a blocked account?);
- (e) Notice of sale: No later than the deadline for filing and serving the

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amended motion, Debtor must file a notice of sale on the local form (LBR 6004-1(f));

(f) Taxes: Debtor must address the tax consequences of the proposed sale (LBR 6004-1(c)(3)(l)).

(g) "Pre-Release to Debtor": Debtor must explain and justify the tens of thousands of dollars that are listed as "Pre Release" to Debtor before the amount "Due To Seller" on the estimated closing statement (dkt. 23, Ex.B, at PDF p.43);

(h) Good faith finding: Judge Bason's posted procedures (available at cacb.uscourts.gov) provide that before any successful bidder is found to be a good faith purchaser under 11 U.S.C. 363(m), supporting declaration(s) must be filed that address:

(1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees),

(2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and

(3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Christian Rossil

Represented By
Todd B Becker

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#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/02/19

LAURA Z. NALVARTE MORENO
vs
DEBTOR

Docket 31

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the status conference (calendar no. 9, 4/9/19 at 1:00 p.m.).

Tentative Ruling for 4/2/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Laura Z. Nalvarte Moreno

Represented By
Michael F Chekian

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#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/05/19, 03/05/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Appearances are not required on 4/9/19. The tentative continuances/dispositions of matters before this Court are set forth below.

(1) Current issues

(a) Relief From Stay Motion (the "R/S Motion," dkt. 31)

The tentative ruling is to continue the hearing on the R/S Motion for 6 months to 9/10/19 at 10:00 a.m., subject to further continuation, until Debtor's adversary proceeding (see dkt. 40) has been resolved. See Debtor's response (dkt. 41).

(b) Motion to Sell Free and Clear (dkt. 23)

Deny the motion, because as of the preparation of this tentative ruling Debtor has not filed a declaration and/or amended motion (due 4/4/19 per this Court's oral ruling at the 4/2/19 hearing) to address the issues raised by United States Trustee's opposition (dkt. 39) and the other issues raised by this Court in its tentative ruling for the 4/2/19 hearing (reproduced below).

Proposed order: Debtor is directed to lodge proposed orders (one for each of the foregoing matters) via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 (untimely but excused, dkt. 25).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 5/21/19 at 1:00 p.m., *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 3/5/19:
Appearances required.**

(1) Current issues

(a) Financial losses and irregularities

Debtor's first Monthly Operating Report ("MOR," Jan. 2019, dkt. 17, p.1) appears to show that Debtor started with \$2,518.85 and ended with \$25.64. How is this sustainable? It appears to match Debtor's bankruptcy Schedules I&J (dkt. 1 at PDF pp.43-46), which show negative cash flow and no anticipated future change. Although Debtor's status report (dkt. 13) states that Debtor intends to sell one property and/or evict the tenant, but the docket does not reflect any progress on those things. Based on the foregoing, the tentative ruling is to dismiss this bankruptcy case.

The same MOR appears to show that Debtor paid \$150 on a "Personal Loan" from "Samuel Samuel" via "Cash App" (dkt. 17, at PDF p.2, 1/15/19 entry) - is that an unauthorized postpetition borrowing? Alternatively, is it an unauthorized payment of prepetition debt? Either way, it appears that Debtor is violating the duties of a debtor in possession.

Likewise, the MOR shows a payment of \$479.31 to Capital One Auto Carpay for an "Automobile Loan." Dkt. 17, at PDF p.3, entry for 1/22/19. What is the explanation?

Likewise, the MOR shows a payment of \$228.96 to "Charter Communications" on 1/28/19 for "Internet (Includes Past Due Amounts)." This appears to violate the automatic stay: what will Debtor's counsel do about that?

(b) Disregarding Court order

This Court's "Order Setting Bar Date: April 16, 2019 and Directing Service by Debtor" (dkt. 14, emphasis added) specifically directed Debtor to serve a copy of that order no later than February 11, 2019. There is no proof of such service. Why not? The tentative ruling, if this case is not dismissed,

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is to issue an order setting an amended bar date, and once again direct Debtor to serve a copy of that amended order on creditors (see below).

(c) Missing budget motion. At the 2/5/19 hearing and in the Initial Case Status Report (dkt. 13), Debtor represented to this Court that a budget motion would be forthcoming. As of the writing of this tentative ruling, no such motion has been filed. Why not?

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 but no notice (see above), so re-set to 5/30/19 (DO NOT service any notice - this Court will prepare an amended bar date order and that order will direct Debtor to serve it on creditors).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/9/19 at 1:00 p.m., *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Missing status report. Debtor is directed to explain why a Case Status Report was not filed, as required by this Court's order setting this status conference (dkt. 5).

(b) Missing "first day" motions. Debtor has failed to file a budget motion (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov). Debtor also has not filed any other typical "first day"

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motions (e.g., a utility motion).

(c) Negative, and inadequately supported, monthly income. Debtor appears to have a new job as a real estate broker, but even with that new (alleged) income and supplemental income as a Lyft driver he shows negative cash flow. See Bankruptcy Schedules I & J (dkt. 1 at PDF pp. 43-46).

Debtor appears to have two properties, but does not list any leases or any income from a rental property: why not?

Debtor has stated under penalty of perjury that he does not expect any changes to income or expenses (see bankruptcy Schedule I, item 13, and Schedule J, item 24). How can Debtor hope to reorganize with negative cash flow?

In addition, the (sparse) income that is reported is inadequately supported. Debtor has ignored the instructions on bankruptcy Schedule I, line 8a, to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income."

(c) Dismissal? Should this Court dismiss this case? Does the foregoing constitute a "willful failure to appear in proper prosecution" of this case, and/or a "willful" failure to comply with this Court's order setting this status conference, either of which would support dismissal with a bar under 11 U.S.C. 109(g)(1)?

(2) Deadlines/dates. This case was filed on 1/8/19. **If** this case is not dismissed, the tentative ruling is to set the following deadlines/dates:

(a) Bar date: 4/16/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT...

Christian Rossil

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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2:19-10762 Koi Design LLC

Chapter 11

#10.00 Hrg re: Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d) Debtor's Notice of Emergency Motion and Emergency Motion for Entry of Interim and Final Orders: (I) Authorizing the Debtor to Obtain Postpetition Financing; (II) Authorizing Use of Cash Collateral; (III) Granting Liens and Super-Priority Claims; (IV) Granting Adequate Protection to Prepetition Secured Lender; (V) Modifying the Automatic Stay; (VI) Scheduling a Final Hearing; and (VII) Granting Related Relief

Docket 129

Tentative Ruling:

Please see tentative ruling in status conference (4/9/19, cal no. 12 at 1:00 p.m.).

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

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#11.00 Cont'd hrg re: Emergency Motion for Authority to: (A) Use Cash Collateral on an Interim Basis Pending a Final Hearing; (B) Grant Replacement Liens; and (C) Set Final Hearing fr. 01/30/19, 03/05/19, 3/26/19

Docket 4

Tentative Ruling:

Tentative Ruling for 4/9/19

Please see tentative ruling in status conference (4/9/19, cal no. 12 at 1:00 p.m.).

Tentative Ruling for 3/5/19

Please see tentative ruling in status conference (3/5/19, cal. no. 8 at 1:00 p.m.).

Tentative Ruling for 1/23/19

Grant the motion (docket no.4) on an interim basis, subject to the conditions set forth below and any opposition at the hearing, with a final hearing on 2/26/19 at 1:00 p.m., and a deadline of 2/1/19 for the movant to file and serve a notice of the final hearing. Appearances required.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the

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hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in

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which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a

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mutually convenient time for either a telephonic or in-person hearing to address such disputes.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19

Docket 1

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#13.00 Hrg re: Motion for Order Determining Value of
Collateral re: 619 W. Gladstone Street, Glendora, CA.

Docket 83

Tentative Ruling:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#14.00 Hrg re: Motion for Order Determining Value of
Collateral re: 1518 Waters Avenue, Pomona, CA

Docket 84

Tentative Ruling:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#15.00 Hrg re: Motion for Order Determining Value of
Collateral re: 2551 Yorkshire Way, Pomona, CA.

Docket 85

Tentative Ruling:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#16.00 Hrg re: Motion for Order Determining Value of
Collateral re: 1580 West 2nd Street, Pomona, CA.

Docket 86

Tentative Ruling:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#17.00 Hrg re: Poser Investments Inc's Motion for Reconsideration of "Order Granting Ex-Parte Motion to Extend Time for Order Setting Case Management Deadline for Filing Debtor's Disclosure Statement and Plan of Reorganization and Extending Debtors' Exclusive Right to File Individual Chapter 11 Plan of Reorganization"

Docket 99

Tentative Ruling:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#18.00 Cont'd Status Conference re: Removal
fr. 2/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Tentative Ruling for 2/5/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 9) and the other filed documents and records in this adversary proceeding. Based on those documents it appears that both the plaintiff (Poser Investments, Inc., "Poser") and the Debtor-defendants agree that the four properties at issue either were never properly transferred or have been returned to Debtors, and either way they are now part of the bankruptcy estate. The principal remaining issues appear to be:

- (1) Will the other defendants contest that issue?
- (2) Does this Bankruptcy Court require jurisdiction over those other defendants (so as to enter a judgment against them, or at least against the interests that they previously asserted against the four properties), and if such jurisdiction is required, is such jurisdiction established by their appearance in the removed State Court action, or do they consent to *in personam* jurisdiction?
- (3) Does the underlying default judgment obtained by Poser's predecessor in interest against Debtors have a preclusive effect against the Debtor-defendants?
- (4) Does Poser have allowable secured claims against the four properties based on the *lis pendens* and abstracts of judgment?

The parties are directed to address whether there are different principal issues that this Court has not identified. In addition, the parties are

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directed to address why it would be necessary to have further discovery (in addition to what has already been conducted in the State Court) to address these issues. These appear likely to be resolved based on an application of the law to the undisputed facts, after briefing - e.g., motion(s) for summary judgment.

Meanwhile, it appears appropriate to order mandatory mediation, as set forth below.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and

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that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/10/18. The tentative ruling is not to set any deadlines (e.g., for cutoff of discovery) at this time, so as to provide time for mediation and/or motion(s) for summary judgment on potentially dispositive issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By

Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Pro Se

Elizabeth Ebuehi

Pro Se

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

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Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

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#19.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19

Docket 26

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16,
9/6/16, 11/29/16, 12/13/16, 02/28/17, 4/25/17,
5/23/17, 7/11/17, 8/22/17, 10/03/17, 1/23/18,
1/30/18, 3/20/18, 5/1/18, 11/6/18, 1/29/19, 2/26/19

Docket 7

***** VACATED *** REASON: Cont'd to 5/21/19 at 2:00 p.m. [dkt. 466]**

Tentative Ruling:

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#2.00 Cont'd hrg re: Motion For Issuance Of Order To Show Cause Why Debtors Should Not Be Ordered To Comply With The Terms Of Their Second Amended Plan And Held In Contempt For Obstructing The Sale Of Their Japanese Residence And Failure To Transfer All Funds In Their Japanese Bank Account(S) To A U.S.-Based Debtor Account fr. 3/26/19

Docket 384

Tentative Ruling:

Tentative Ruling 4/9/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

Tentative Ruling 3/26/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#3.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Appearances Required

(1) Current Issues

(a) Implementation of the Plan; Order to Show Cause ("OSC," dkt. 386), and supplemental order ("OSC Supp," dkt. 399)

Debtors have not responded to the OSC (dkt. 386) or the OSC Supp (dkt. 399). The Fresco Parties have responded with a supplemental brief (dkt. 403) pointing out that this Court cannot appoint a chapter 11 trustee, but also recapping the disadvantages of conversion to chapter 7, and suggesting instead that (i) this Court should sanction Debtors, (ii) this Court should replace the current disbursing agent under the confirmed Plan, Mr. Aronson, with a new disbursing agent (the mechanism to choose such a person is not discussed), and (iii) this Court should vest that person with the power to execute documents to implement the Plan pursuant to 11 U.S.C. 1142(b):

1142. Implementation of plan

* * *

(b) The court may direct the debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of property dealt with by a confirmed plan, and to perform any other act, including the satisfaction of any lien, that is necessary for the consummation of the plan.

The tentative ruling is to find that the individual Debtors are in contempt of court for each of the reasons stated in the OSC and the OSC Supp, and to award the compensatory, coercive, and punitive sanctions set

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forth below. As for issuing order(s) replacing the disbursing agent and vesting some person with power to execute documents and do other things necessary or appropriate to implement the Plan, this Court is concerned that such orders might exceed the scope of authority under section 1142(b), but similar relief might be available using other mechanisms, perhaps only after commencing an adversary proceeding or perhaps not, under Rules 70 and 71 (Fed. R. Civ. P., incorporated by Rules 7001(7), 7070, 7071, and 9014(c), Fed. R. Bankr. P.). The parties are directed to address these issues at the hearing.

As for sanctions, the tentative ruling is to set a deadline of 4/14/19 for the Fresco Parties to file and serve their declaration(s) with attached timesheets, a deadline of 4/23/19 for Debtors and the U.S. Trustee to file and serve any responses, and any reply may be presented orally at the continued hearing. In addition, the tentative ruling is to impose coercive sanctions, payable to the Court, starting at \$100 per day and continuing until Debtors comply with all of their obligations set forth in the OSC and the OSC Supp, all subject to being increased or otherwise adjusted at the continued hearing. In addition, the tentative ruling is to impose punitive sanctions of \$2,500, payable to this Court, also subject to adjustment in future (either by this Court or by the District Court if punitive sanctions or other issues are before the District Court - because of the limitations on this Bankruptcy Court's ability to award any punitive sanctions, it may be necessary for the District Court to address that issue, which might be accomplished by a recommendation from this Court for withdrawal of the reference, perhaps only for that limited purpose, or which might be based on proposed findings of fact and conclusions of law by this Court, or any other mechanism that is appropriate). See *In re Dyer*, 322 F.3d 1178, 1195 (9th Cir. 2003); see also *In re Count Liberty, LLC*, 370 B.R. 259, 274 (Bankr. C.D. Cal. 2007).

The continued hearing on the OSC and the OSC Supp will be concurrent with the continued status conference set forth below.

(b) Coordination with Japanese authorities

This Court intends to address briefly with the parties what methods may be appropriate to request and obtain the assistance of any authorities in Japan in enforcing the terms of the Plan and this Court's orders. This Court may set a briefing schedule to address those things.

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- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).
 - (c) Continued post-confirmation status conference (in the Sakurai and Checkmate cases): 4/30/19 at 2:00 p.m. (status report due 4/23/19).
 - (d) Continued adversary proceeding status conference (Radiology/Fower): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 3/26/19:
Appearances Required**

- (1) Current Issues
- (a) Order to Show Cause ("OSC," dkt. 386)
The parties should be prepared to address the issues raised by the OSC (dkt. 386), the motion for the OSC (dkt. 384), the status report (dkt. 390), the declaration of the Sakurais' counsel Mr. Gebelt (dkt. 391), and the reply of the Fresco Parties (dkt. 392).
- 2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).
 - (c) Continued post-confirmation status conference (in the Sakurai and Checkmate cases, and the related RS/Fower adversary proceeding): 4/30/19 at 2:00 p.m. (status report due 4/23/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 1/15/19:
Appearances Required**

(1) Current Issues

(a) Final Fee Application for Debtor's Counsel (*Checkmate*, dkt. 249, 250, 253, 255, 257, 258, 261, 264; and *Sakurai*, dkt. 343, 346, 352, 355, 356, 363, 367)

The applications seek \$350,846.10 (*Checkmate*) and \$118,796.75 (*Sakurai*). This Court has allowed a total of \$300,000, and set this continued hearing to address the balance of \$169,642.85. See Interim Fee Orders (dkt. 261, *Checkmate*; dkt. 363, *Sakurai*).

The Fresco parties' objections note that this Court has on more than one occasion expressed grave concerns about whether these Debtors have adequately prosecuted these bankruptcy cases. Of course, this Court expects that counsel for the debtors would not in any way have participated in any attempts by these Debtors to mislead or obstruct creditors in these cases, but that is not the end of the inquiry.

On the one hand, when there are legitimate strategic or tactical reasons to chose among different courses of action, counsel for Debtors usually must act at their clients' direction, even if they might harbor some doubts about the efficacy of those choices. On the other hand, in addition to the ethical limits of what counsel may do at their clients' direction, counsel are only permitted "reasonable compensation for actual, necessary services" (11 U.S.C. 330(a)(1)(A) (emphasis added)), and in determining what compensation is reasonable this Court "shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including [among other things] whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, [these bankruptcy cases]."

In these cases there are open questions about (i) Debtors' own acts and omissions, and whether Debtors were or were not engaging in a lack of

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diligent prosecution of these cases or other misconduct, (ii) whether Debtors, if deposed or examined at trial on those issues, will or will not assert advice of counsel, and (iii) whether, regardless of the foregoing issues, counsel for Debtors can satisfy the above-referenced statutory requirements. For all of these reasons, the tentative ruling is that the Fresco parties must have a reasonable period of time in which to conduct discovery to investigate Debtors' apparent failures to prosecute these cases or other misconduct, and whether, in view of the results of any such discovery, the compensation sought by counsel for Debtors is for "necessary" services and is "reasonable" in dollar amount, given all of the facts and circumstances.

Meanwhile, although this Court recognizes that all interim compensation may be revisited in connection with any final award, the question is how much to award on an interim basis, and whether any disbursed funds must be held in trust. The tentative ruling is to award another \$35,000 to counsel for Debtors, to be allocated pro rata in proportion to their outstanding fee requests, without requiring any portion of those funds to be held in trust, but also without prejudice to allowance of a greater or lesser final award.

The parties should be prepared to address the schedule for discovery on the issues outlined above. The tentative ruling is that a five month period is appropriate.

Then, in connection with any final fee award, or at such other time as this Court may later determine, the Fresco parties' objections can be revisited with the benefit of both (i) any discovery and (ii) any subsequent developments. For example, any additional disclosures and/or recoveries in the Fower/Radiology litigation might shed light on whether Debtors' and their counsel's strategies and tactics in dealing with those parties were appropriate at the time they were made. (This Court emphasizes that any subsequent developments would be relevant only to the extent they shed light on what was reasonable at the time the legal services were rendered - not for purposes of "20/20 hindsight.")

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued post-confirmation status conference (in the *Sakurai* and

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Checkmate cases, and the related RS/Fower adversary proceeding): 3/26/19 at 2:00 p.m. (status report due 3/19/19).

*Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Rulings for 10/26/17 through 1/8/19:

[OMITTED FOR BREVITY]

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22648 Checkmate King Co., LTD

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#4.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

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Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

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These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.

(c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

Appearances required.

(1) Current issues.

(a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais'

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bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms

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required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that

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motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

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(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

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(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

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(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on a final basis.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

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(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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#5.00 Cont'd combined hrg re: Approval of disclosure
statement and plan confirmation
fr. 3/26/19

Docket 69

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the status conference (calendar no. 6,
4/9/19 at 2:00 p.m.)

Tentative Ruling for 3/26/19:

Please see the tentative ruling for the status conference (calendar no. 17,
3/26/19 at 1:00 p.m.)

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

Movant(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot
Jeffrey S Shinbrot

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#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19

Docket 5

Tentative Ruling:

Tentative Ruling for 4/9/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Plan and disclosure statement (68, 69)

Debtor should be prepared to address whether it has come to a consensual resolution with some or all tenants regarding their move out date and related matters. To the extent any disputes remain, the parties are directed to address (i) whether this Court should recognize them, given the absence of written objections to confirmation, and (ii) the merits of those objections.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: See above.

(c) Post-confirmation status conference if the Plan is confirmed:
7/9/19 at 1:00 p.m. Status report due 6/25/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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Tentative Ruling for 3/26/19:

Appearances required.

(1) Current issues

(a) UST motion to dismiss (dkt. 79)

Have the issues in this motion been resolved (see dkt. 82)?

(b) Third amended plan (dkt. 69) and disclosure statement (dkt. 68)

The tentative ruling is to approve the Disclosure Statement on a final basis, and confirm the Plan for the following reasons.

Service of the voting package and notice (dkt. 75, 77) appears to have complied with this Court's orders setting this hearing (dkt. 71, 72). The ballot summary (dkt. 81) shows timely acceptance by Classes 2A, 2B, and 2C, untimely acceptance by Class 2D (the last of the secured claim classes), a lack of any votes by Class 4 (nonpriority unsecured creditors, who are to receive a 30% distribution under the Plan), and votes against the plan by Class 6 (mobile home park tenants, who may receive up to the value of their mobile home, if they hold a valid tenancy, or \$2,000 for removing the mobile home). Because not every impaired class has accepted the Plan (paragraph "(8)" of 11 U.S.C. 1129(a)), Debtor must satisfy the requirements for "cramdown" under subsection "(b)" of 11 U.S.C. 1129, as well as the other requirements of subsection "(a)."

The tentative ruling is that Debtor has done so. Cramdown requires, among other things, that a plan be "fair and equitable" and not "discriminate unfairly" as to non-accepting impaired classes. 11 U.S.C. 1129(b).

None of the non-accepting classes have filed any objections to confirmation of the Plan or final approval of the adequacy of the Disclosure Statement. The treatment of Class 2D is justified by its belated acceptance of the Plan. The treatment of Class 4 appears to be justified by the legal requirement to pay secured creditors ahead of unsecured creditors, the "new value" contribution of Debtor's principal, and Debtor's cash flow projections. The treatment of Class 6 appears to be justified by Debtor's disclosure of its legal theory for displacing the mobile home park tenants, and the absence of any contrary arguments or authority. See Disclosure Statement, Exhibit "I" (dkt. 68 at PDF pp.22-24).

The final requirement is the other elements of 11 U.S.C. 1129(a).

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Those appear to have been satisfied, both by Debtor's use of this Court's form of plan and disclosure statement and by the data included when Debtor completed those forms.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B). In addition, the proposed order must include the language required by Local Rule 3020-1(b), including a post-confirmation status conference as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: See above.

(c) Post-confirmation status conference: 7/9/19 at 1:00 p.m. Status report due 6/25/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required.

(1) Current issues.

(a) Plan (dkt. 64, the "Plan") and disclosure statement (dkt. 63, the "D/S")

It appears that counsel for Debtor has manually altered the spreadsheets, which defeats the purpose of having automatic (reliable) calculations in the spreadsheets. In addition, it appears that the Plan periods in Ex.A are "1" month and 13 months later (month "14"), whereas on Ex.C Period A is 3 months, Period B is 1 month, and Period C is 6 months, which

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does not match. In addition, the Effective Date (*e.g.*, on Ex.A & Ex. C) should be revised to a date that is at least two weeks after the combined hearing on the plan and D/S set forth below.

Subject to correction of these issues, the tentative ruling is to conditionally approve the disclosure statement and authorize service of the voting package, all as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 64,63)*: 12/18/18 deadline (i) to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and (ii) to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference. The proposed order should be modified so that the voting package includes Mr. Starflinger's declaration (dkt. 65).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 3/12/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 11/6/18:

Appearances required.

(1) Current issues. This Court has reviewed Mr. Starflinger's declaration (dkt. 62) and will address at the Status Conference Debtor's first amended plan (dkt. 61) and first amended disclosure statement (dkt. 60).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 12/4/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/9/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 57) will address at the Status Conference Debtor's proposed Plan (dkt. 55) and disclosure statement (dkt. 54).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing

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service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 11/27/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 8/7/18:

Continue to 10/9/18 at 1:00 p.m., per the debtor's request (Status Report, dkt. 51). Appearances are not required on 8/7/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

Continue to 8/7/18 at 1:00 p.m. Appearances are not required on 6/26/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

- (1) Current issues. This court has no issues to raise *sua sponte*.
 - (2) Deadlines/dates. This case was filed on 5/15/18.
 - (a) Bar date: 8/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: file by 8/21/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 6/26/18 at 1:00 p.m., to be concurrent with other hearings in this case. No status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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2:18-15829 Philip James Layfield

Chapter 7

#7.00 Cont'd hrg re: Motion for Order Compelling Debtor to Appear at Continued § 341(a) Examination and for Order Authorizing Trustee to File Affidavit for Order Pursuant to Federal Rule of Bankruptcy Procedure 2005 fr. 2/26/19, 3/26/19

Docket 186

***** VACATED *** REASON: Per the Trustee's Status Report (dkt. 212), this matter can be taken off calendar**

Tentative Ruling:

Party Information

Debtor(s):

Philip James Layfield

Pro Se

Movant(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

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2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/29/16, 12/13/16, 1/10/17, 2/7/17, 4/4/17,
5/2/17, 06/13/17, 7/11/17, 8/22/17, 11/14/17,
1/23/18, 02/13/18, 03/06/18, 4/17/18, 5/8/18,
6/26/18, 9/18/18, 10/2/18, 12/4/18, 12/18/18,
1/15/19, 2/26/19; 04/02/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (1) whether this Court should hold off on issuing any order implementing its Memorandum Decision Granting Motion to Dismiss Without Leave to Amend (2:18-ap-01057-NB, dkt. 48), (2) whether dismissal should be without leave to amend, and (3) any other procedural issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:
Appearances required.

(1) Current matters

At the hearing on 10/2/18 this Court heard oral argument on the motion of the Bureau of Land Management ("BLM") to dismiss Debtor's adversary proceeding ("Debtor v. BLM," Adv. No. 2:18-ap-01057-NB). This Court took the matter under submission and continued the various related matters in this case to 12/4/18, and then (for this Court's own scheduling needs) to 12/18/18 (dkt. 167), and then (based on the partial shutdown of the U.S. government) to 2/26/19 (*Debtor v. BLM* adv. dkt. 44, 46).

(a) Current status and tentative rulings

This Court anticipates, prior to this 2/26/19 hearing, finalizing and issuing a Memorandum Decision granting the BLM's motion to dismiss the *Debtor v. BLM* adversary proceeding, without leave to amend. Based on that ruling, Debtor will not have any interest in the subject leases. The tentative ruling is that this moots the related matters:

(i) Debtor v. Western States Int'l et al.

Debtor's adversary proceeding against other parties in interest that essentially seeks to clear Debtor's title to the leases ("*Debtor v. Western States Int'l, et al.*," Adv. No. 2:17-ap-01326-NB); and

(ii) R/S Motion (dkt. 130)

Ms. Aliet-Gass's motion for relief from the automatic stay to proceed with pending litigation in State Court, in which she essentially seeks to assert the alleged interests of Western States Int'l against Debtor.

Accordingly, the tentative ruling is (x) to stay the foregoing related matters for a period of not less than 14 days after entry of this Court's order dismissing the *Debtor v. BLM* adversary proceeding, (y) if there is an appeal from that order, to extend such stay during the pendency of any appeal and subsequent proceedings on that order, and (z) if there is no appeal, dismiss

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this bankruptcy case and all pending adversary proceedings and contested matters. This Court will prepare the orders granting the BLM's motion to dismiss and the orders staying the related proceedings.

The parties should be prepared to address whether any additional procedural issues need to be addressed.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 3/26/19 at 2:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no written tentative ruling, but this Court may give oral tentative rulings at the start of the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Continue all matters in this case that are set for today to 10/2/18 at 2:00 p.m.,

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sua sponte. Appearances are not required on 9/18/18.

Tentative Ruling for 6/26/18:

Continue (1) the Status Conference and (2) the motion of Ms. Aliet-Gass for relief from the automatic stay to 9/18/18 at 2:00 p.m. to be concurrent with related hearings. Appearances are not required on 6/26/18.

Tentative Ruling for 5/8/18:

This court anticipates posting a tentative ruling at a later time. [NOTE: no tentative ruling was posted]

Tentative Ruling for 4/17/18:

Continue (1) calendar nos. 5, 6 and 7 on today's calendar, and (2) the motion for relief from the automatic stay filed by Ingrid Aliet-Gass for herself and Western States International, Inc. (dkt. 130, the "R/S Motion") all as set forth below. Appearances are not required on 4/17/18.

Specifically, the tentative ruling is as follows:

(1) Continue (a) the status conference in this bankruptcy case, (b) the status conference in adversary proceeding no. 2:17-ap-01326-NB, and (c) the debtor's motion to amend the complaint in that adversary proceeding (adv. dkt. 125, and see adv. dkt. 130, 131, 139, 142) to be concurrent with (d) the motion by the Bureau of Land Management ("BLM") to dismiss the separate adversary proceeding against it (no. 2:18-ap-01057-NB, adv. dkt. 7), which is currently scheduled for 5/8/18 at 2:00 p.m.

(2) Continue the R/S Motion, which is currently set for 5/1/18 at 10:00 a.m., to the same date and time.

After this hearing date this Court will prepare an order continuing all of the foregoing matters and will serve it on the BLM, Aliet-Gass, and Western States International, Inc. at the addresses known to this Court, and that order will also direct the debtor to serve those parties and any other known parties with an interest in the foregoing matters.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: TBD.

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(c) Continued status conference: see above.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required.

(1) Current issues.

(a) Default judgment motion - Wilshee (adv. dkt. 140). Deny for lack of service. See dkt. 140 at PDF p.4 (serving defendant at "ENTER ADDRESS HERE").

(b) Default judgment motion - JNDDC, LLC (adv. dkt. 135). Deny for lack of service. See dkt. 135, last two pages (defendant not listed in service list).

(c) Default judgment motion - Flavio Rodriguez (adv. dkt. 133). Deny for lack of service. See dkt. 133 at PDF p.8 (marked up by someone - movant? - to show deficiencies in completion of proof of service) *and* dkt. 133 last two pages (defendant not listed on service list).

(d) Default judgment motion - Jag Pathirana (adv. dkt. 134). Grant. It appears that plaintiff has abandoned claims against defendant Jag Pathirana other than "clearing title" to the plaintiff/debtor's alleged property interests at issue in the complaint. That appears to moot the relevant concerns previously raised by this court (see adv. dkt. 116, exhibit).

(e) Case status report (case dkt. 122) and adversary proceeding against Bureau of Land Management (Adv. No. 2:18-ap-01057-NB). The debtor should be prepared to provide an update as to the status of these matters.

(2) Deadlines/dates. This case was filed on 11/23/16.

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(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/10/18 at 2:00 p.m., *brief* status report due 4/3/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status Reports (main case dkt. 122; adv. no. 2:17-ap-01326-NB, dkt. 132). The debtor/plaintiff suggests that it will be filing a motion to approve a disclosure statement. Is that premature, given the following issues?

(b) Motion to amend complaint (adv. dkt. 125). The parties should be prepared to address the issues raised in the motion and in the oppositions filed by the California Department of Conservation, Division of Oil and Gas, and Geothermal Resources ("DOGGR") (adv. dkt. 125, 130, 131).

In addition, the debtor/plaintiff should be prepared to address whether the proposed amended complaint cures the deficiencies in the original complaint, and whether any ruling on the motion to amend the complaint should be deferred until after default judgments are (or are not) obtained on the existing (original) complaint, for the reasons set forth in this Court's Memorialization Of Reasons For Denying Motions For Default Judgments

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(captioned for the adversary proceeding but erroneously filed in the main case as dkt. 118). See also Order denying prior motions for default judgments (adv. dkt. 117) and subsequent Motions for default judgments (adv. dkt. 133, 134, 135).

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: initial date of 7/10/17 (order timely served, dkt. 56, 60, 103, 111, 121, 123); supplemental date of 1/26/18 (order served late, but the tentative ruling is to excuse that lateness, dkt. 107, 110).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/20/18 at 2:00 p.m., status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue the status conferences in both the main case and the adversary proceeding (adv. no. 2:17-ap-01326-NB) to 2/13/18 at 2:00 p.m. with a status report due 2/6/18 (at which time other documents are also due as set forth below) for the reasons set forth below. Appearances are not required on 1/23/18.

(1) Current issues

(a) Reasons for continuance: (i) because of the problems noted below; (ii) because of the debtor's untimely last-minute filing of status reports (the debtor is cautioned that continued untimely filings may result in sanctions); (iii) because of the inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government, (iv) to be

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concurrent with the (improperly self-calendared) motion to amend the complaint, and (v) in view of the debtor's various status reports (main case dkt. 117, adv. dkt. 122, 127, 129).

(b) Bar date. The debtor's proofs of service of the bar date order are missing exhibits and incomprehensible (see dkt. 110, 111). The debtor is directed to file, no later than 2/6/18, either a corrected proof of service or an application (supported by a declaration) to set yet another supplemental bar date - whichever is appropriate.

(c) Status of existing complaint in adversary proceeding. On 11/20/17 this court issued an order (adv. dkt. 117) denying the plaintiff/debtor's motions for default judgments, without prejudice. The debtor now seeks to amend the complaint (adv. dkt. 125). All of these things moot the motions for default judgments so the hearings on those motions have been vacated.

In addition, the tentative ruling is to memorialize this court's reasons for denying the motions for default judgments by filing on the docket a copy of this court's adopted tentative ruling for the 11/14/17 hearings on those motions (reproduced within the tentative ruling for calendar no. 9. 1/23/18 at 2:00 p.m.).

(d) Motion to amend complaint (adv. dkt. 125). This motion was self-calendared for 2:00 p.m. (a time that cannot be used for self-calendaring) on 2/13/18. Nevertheless, the tentative ruling is to permit that motion to proceed at that time.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: initial date of 7/10/17 (order timely served, dkt. 56, 60); supplemental date of 1/26/18, to be served no later than 11/15/17 (per Order, dkt. 107) but proofs of service are incomprehensible (dkt. 110, 111) - see above under "current issues".

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: as set forth above.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the following issues.

(1) Current issues. The debtor has filed a second (very belated) proof of service (dkt. 103) of this court's order (dkt. 56) setting a bar date. Under that order the bar date was set as 7/10/17 and service was required no later than 5/8/17. What does the debtor's belated service do except cause confusion? Does the debtor require a new bar date for previously unknown creditors?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date: 7/10/17 (order timely served, dkt. 56, 60; but see above under "current issues").

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 1/30/18 at 2:00 p.m., status report due 1/16/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 8/22/17:

The tentative ruling is to dismiss this case with a 180 day bar for willful failure to appear in proper prosecution, as set forth below. See 11 U.S.C. 109(g)(1). Appearances are not required.

Reasons: This case was filed on 11/23/16. The debtor's assets consist of disputed rights in hydrocarbon leases. See Status Report, dkt. 81. Realizing any value from those rights apparently depends on retaining special counsel who will diligently prosecute the debtor's claims. Despite numerous opportunities, the debtor has failed to satisfy the prerequisites for retention of special counsel.

(1) Inadequate declarations about "connections"

At the hearing on 7/11/17 this court extensively reviewed the evidence that would be required before this court could approve the application to employ the latest proposed special counsel, Mr. Montes. That included a requirement of detailed declarations from Mr. and Mrs. Hoats regarding any transfers of any property (including intangible property) involving the debtor and any of them, as well as any other "connections" (as that term is used in Rule 2014, Fed. R. Bankr. P.) to the debtor and any other party in interest.

This court recognizes that Mr. and Mrs. Hoats are not the professionals whose employment is being sought. Nevertheless, given their very close ties to the debtor, and their failure to disclose connections to the prior proposed special counsel that raised questions about conflicts of interest, this court orally ordered the debtor to provide their declarations at the hearing on 5/2/17. That order has been ignored.

(2) Knudsen factors

This court also directed Mr. Montes to file a declaration addressing the factors that this court must consider in assessing his request to be paid more frequently than once every 120 days. See *In re Knudsen*, 84 B.R. 668, 672-73 (9th Cir. BAP 1988). Mr. Montes has filed such a declaration (dkt. 82) and has adequately summarized the factors (*id.*, p.3:15-23) but he has not adequately addressed the third factor, which he summarizes as: "any funds paid but later disapproved by the court can be recovered from the professional" in one or more of the ways listed in *Knudsen*. (Emphasis added.) Those ways are:

[a. Holdback] retainer payments are for only a percentage of the amount billed so that the likelihood or necessity of repayment is

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minimal [Mr. Montes suggests a 10% holdback, which has not been shown to be adequate - the typical amount is 20%, and that typically applies only to well established firms whose ability to repay funds is reinforced by the firm's longevity and reputation or similar considerations];

[b. Bond] counsel can post a bond covering any possible reassessment [Mr. Montes has not addressed this factor];

[c. Financial ability to repay] counsel's financial position makes it certain that any reassessment can be repaid [Mr. Montes has not addressed this factor]; [and/or]

[d. Hold funds in trust account] funds paid prior to allowance are held in a trust account until a final or interim fee allowance is made [Mr. Montes has only offered to place the 10% proposed holdback in a trust account]. [*Knudsen*, 84 B.R. 668, at 672]

(3) The debtor appears to cite the wrong statutory authority

The debtor's application to employ Mr. Montes (dkt. 65) requests that his employment be approved under subsection "(e)" of 11 U.S.C. 327. But that subsection only applies by its terms to an attorney who "has represented the debtor" (*i.e.*, prepetition counsel whose employment is to continue postpetition). *Id.* (emphasis added).

That is not the end of the analysis, because it has been held that special counsel can be employed even when such counsel has not represented the debtor prepetition. *See In re Fondiller*, 15 B.R. 890, 892 (9th Cir. BAP 1981) (emphasis added), *appeal dismissed*, 707 F.2d 441 (9th Cir. 1983). Although *Fondiller* has been interpreted as authorizing employment under subsection (e) (*see, e.g., Covenant Fin. Group of Am., Inc.*, 243 B.R. 450, 455 & n. 8 (Bankr. N.D. Ala. 1999)), the precise holding of *Fondiller* appears to be that special counsel can be employed under subsection "(a)" of Section 327 because any "omission" in subsection "(e)" does not limit the general authority in subsection "(a)." *See Fondiller*, 15 B.R. at 891-92 (interpreting § 327(a) by comparison with §§ 327(c) and (e)).

True, the precise statutory authority appears to make little if any practical difference, because *Fondiller* held that when counsel is only employed to perform limited services, then an interest "adverse to the estate" means "an adverse interest relating to the services which are to be performed by that attorney," which appears to mean that the inquiry for proposed special counsel under subsection "(a)" is the same as under subsection "(e)." *Fondiller*, 15 B.R. at 892 (emphasis added). Mr. Montes' declaration

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(included in dkt. 65) appears to meet this test because he states that he has no adverse interest.

Nevertheless, as stated above this court has required additional evidence from Mr. and Mrs. Hoats and that evidence has not been provided. In addition, because the debtor has sought authority under subsection "(e)" instead of "(a)" it appears not have met the technical requirements for employment of Mr. Montes.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/11/17:

Appearances required.

(1) Current issues

(a) Employment of special counsel. Deny the application to employ the Law Offices of M. Brian McMahon (dkt. 46) because he no longer intends to pursue employment. See dkt. 73, para. 3. Deny the application to employ the Law Offices of Mike Montes, Jr. (dkt. 65) due to the failure to address the issues raised by this court in the tentative ruling for 5/2/17 (reproduced below) (without reaching the issues raised by the U.S. Trustee's objection, dkt. 72, and the debtor's reply, dkt. 74). The U.S. Trustee is directed to lodge proposed orders denying each application within seven days after this hearing date.

(b) Lack of progress. Should this case be dismissed for lack of prosecution?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date: 7/10/17 (order timely served, dkt. 56, 60).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/22/17 at 2:00 p.m., status report due 8/15/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent,

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then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/13/17:

Continue to 7/11/17 at 1:00 p.m. to allow the debtor time to prosecute an employment application regarding Mr. Motes (see debtor's case status report, dkt. 62). Appearances are not required on 6/13/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/2/17:

Appearances required. There is no tentative ruling, but the debtor's proposed attorney, Brian McMahon Esq., should be prepared to address the concerns set forth in the U.S. Trustee's objection (dkt. 49) and the other issues set forth below.

(1) Current issues.

(a) Proposed special counsel.

(i) Background. On 4/5/17 the debtor filed an application for authority to employ the law offices of Mr. McMahon as special counsel under 11 U.S.C. 327(e) (dkt. 47). On 4/12/17 the United States Trustee ("UST") filed an objection to the employment application, which expressed concerns about the payment arrangement proposed in the application (dkt. 49).

The debtor filed a statement of disinterestedness for Mr. McMahon (dkt.53), and a reply (dkt.55), stating that a third party, Ms. Lilian Hoats, will be paying the attorney fees for Mr. McMahon's representation. Ms. Hoats is the CEO of Inviron Technologies, Inc. ("Managing Member"), which is the debtor's managing member (dkt. 55, Ex.1, p.1, recital "b"). Attached to the reply (dkt. 55, Ex.1) is a written document that purports to be a waiver of conflicts (if any exist) among the debtor, Ms. Hoats, and the Managing Member (the "Hoats/Managing Member Conflict Waiver").

The Attorney-Client Retainer Agreement attached to the employment application (dkt. 46, Ex.1) provides that Mr. McMahon is representing not only the debtor but also its affiliates Riverwood Energy, LLC ("Energy Affiliate") and Riverwood Resources Ltd. ("Resources Affiliate"). This court is not

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aware of the precise organizational and contractual relationships among the debtor, Energy Affiliate, and Resources Affiliate, nor of any written document purporting to be a waiver of conflicts (if any exist) among them.

(ii) Statutory provisions and rules

Although special counsel does not have to be "distinterested" (compare 11 U.S.C. 327(a)), special counsel still must not "represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed." 11 U.S.C. 327(e) (emphasis added). Under Rule 2014 (Fed. R. Bankr. P.) both Mr. McMahon and the debtor were supposed to disclose all connections between Mr. McMahon and "the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee."

The disclosures have not been adequate. This court does not know enough about the underlying litigation and the organizational and contractual relationships among the various entities to assess whether there may be conflicts of interest between the debtor, on the one hand, and Ms. Hoats, Managing Member, Energy Affiliate, and/or Resource Affiliate.

(iii) A DIP's conflicts generally cannot be waived

Any purported conflict waiver probably cannot waive actual conflicts. See, e.g., *In re Perry*, 194 B.R. 875, 880 (E.D.Cal.1996) (waiver of conflict by non-debtor parties was insufficient and "[i]nformed consent could not be obtained" because "the real parties in interest in this case are the creditors, and that is not a waivable conflict"); *In re B.E.S. Concrete Products, Inc.*, 93 B.R. 228, 235 (Bankr. E.D. Cal. 1988).

But while actual conflicts of interest create a violation of 11 U.S.C. 327 which would require disqualification of the proposed professional, the mere existence of a potential conflict of interest does not require disqualification, and it is up to the court's discretion whether the purported conflict is sufficiently threatening to the estate to warrant disqualification. *In re Wheatfield Business Park, LLC*, 286 B.R. 412, 421 (Bankr. C.D. Cal. 2002).

Are proposed counsel and the debtor aware of any actual conflicts?
How about potential conflicts?

(iv) The purported conflict waiver is incomplete

The Hoats/Managing Member Conflict Waiver is not actually signed by Ms. Hoats in her individual capacity (she has only signed it on behalf of the debtor's Managing Member). In addition, as noted above, this court is not

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aware of any purported conflict waiver among the debtor and Operating Affiliate or Resources Affiliate.

(v) There might be conflicts among the debtor and Ms. Hoats

A third party who funds a retainer for the debtor (the "Funder") generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, counsel for the debtor and proposed special counsel should be prepared to address the following.

(A) Terms. What are the precise agreements, understandings or expectations regarding the funds -- *e.g.*, are the funds a loan, a gift, an investment, or something else?

(B) Informed consent of Funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? Who provided such advice: independent counsel? counsel for the debtor? the debtor's proposed special counsel? Has the Funder given informed consent? Are those things in writing?

(C) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing? Ms. Hoats has signed the Hoats/Managing Member conflict waiver on behalf of the debtor: how can she, acting for the debtor, waive conflicts with herself?

(D) Other considerations. Has proposed special counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? *See In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Lotus Prop's LP*, 200 B.R. 388 (Bankr. C.D. Cal. 1996) (rejecting *per se* disqualification when fees are paid by third party); *and compare In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990) (*per se* rule). *See generally In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not

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converted or dismissed, the tentative ruling is to set the following:

- (a) Bar date*: to be set during the status conference.
- (b) Plan/Disclosure Statement*: same.
- (c) Continued status conference: 5/23/17 at 2:00 p.m., status report due 5/9/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/4/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status report. This court's previous tentative ruling (reproduced below) directed the debtor to file a status report by 3/14/17. Why has no such status report been filed?

(b) Exit strategy. What is the debtor's exit strategy, and what progress has been made toward that goal?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

- (a) Bar date*: to be set during the status conference.
- (b) Plan/Disclosure Statement*: same.
- (c) Continued status conference: 5/23/17 at 2:00 p.m., status report due 5/9/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 2/7/17:

Continue to 4/4/17 at 2:00 p.m., status report due 3/14/17. No appearances are required on 2/7/17.

(1) Current issues

This case was filed on 11/23/16. The debtor's status report (dkt. 34) states that the debtor intends to retain special counsel, and the monthly operating reports (dkt. 37, 38) appear to show no activity other than opening DIP bank accounts and paying associated fees. Although progress in this case has been slow, it does not appear efficient to hold a status conference at this time. If substantially more progress is not shown by the next status conference, this court may dismiss this case for failure to appear in proper prosecution. See 11 U.S.C. 109(g)(1), 349.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 1/10/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Substitution of attorney. On 12/23/16, the debtor filed a substitution of attorney (dkt. 22) reflecting that current proposed counsel is Giovanni Orantes, Esq. Why has no employment application been filed?

(b) Exit strategy. What is the debtor's exit strategy, and what progress has been made toward that goal?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

*Warning: special procedures apply (see order setting initial status

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Tentative Ruling for 12/13/16:
Appearances required.

(1) Current issues

Counsel for the debtor should be prepared to address why no status report has been filed (see dkt. 3); why the docket does not reflect that anything has been done in this case to date; and why this court should not convert or dismiss this case.

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

- (a) Bar date*: to be set during the status conference.
- (b) Plan/Disclosure Statement*: same.
- (c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves, pursuant to the order setting this status conference (dkt. 3).

(1) Current issues.

(a) First Day Motions. The debtor should be prepared to address the necessity of first day motions such as cash collateral, payroll, utilities, etc. To the extent that those motions are necessary, why have they not yet been filed?

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- (2) Deadlines/dates. This case was filed on 11/23/16.
(a) Bar date*: to be set at the continued status conference.
(b) Plan/Disclosure Statement*: same.
(c) Continued status conference: 12/13/16 at 2:00 p.m., initial status report due 11/29/16.
*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

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Adv#: 2:17-01326 Riverwood Gas and Oil LLC v. Western States International et al

#9.00 Cont'd Status Conference re: Complaint 1) Breach of Written Contract; 2) Breach of Implied Contract and Fair Dealings; 3) Interfering with Economic Relationship; 4) Slander of Title; 5) Quiet Title; 6) Declaratory Relief
fr. 8/22/17, 11/14/17, 1/23/18, 02/13/18, 03/06/18, 4/17/18, 5/8/18, 6/26/18, 9/18/18, 10/2/18, 12/4/18, 12/18/18, 1/15/19, 2/26/19; 04/02/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference (calendar no. 8, 4/9/19 at 2:00 p.m.).

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the case status conference (calendar no. 1, 4/2/19 at 2:00 p.m.).

Tentative Ruling for 2/26/19:

Please see the tentative ruling for the case status conference (calendar no. 10, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 10/2/18:

Please see the tentative ruling for the case status conference (calendar no. 4, 10/2/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the case status conference (calendar no. 9, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 5/8/18:

Please see the tentative ruling for the case status conference (calendar no.

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Tentative Ruling for 4/17/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 7, 4/17/18 at 2:00 p.m.).

Tentative Ruling for 3/6/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 11, 3/6/18 at 2:00 p.m.).

Tentative Ruling for 2/13/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 4, 2/13/18 at 2:00 p.m.).

Tentative Ruling for 1/23/18:

Please see the tentative ruling for the status conference in the main case (calendar no. 8, 1/23/18 at 2:00 p.m.).

Tentative Ruling for 11/14/17:

Appearances required. The tentative ruling is to deny the motions for default judgments, without prejudice, for the reasons set forth below, and to set a continued status conference for 1/30/18 at 2:00 p.m.

On the one hand, there appears to be successful prosecution of this adversary proceeding because, according to the plaintiff's status report (adv. dkt. 92), all of the defendants have either agreed to the requested declaratory relief or have defaulted. On the other hand, there are some fundamental issues that appear to prevent this court from granting default judgments at this time.

(1) Self-calendaring error. The motions for default judgments were only served on 10/27/17. See, e.g., Motion for Default Judgment Derek Wilshee (dkt. 83, 74) (collectively, the "Wilshee Default Motion"). That is insufficient time prior to the hearing, under the applicable rules, nor was there any cover notice of the hearing date and deadline for any opposition or response.

(2) Jurisdictional issues.

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(a) Personal jurisdiction. Does the complaint adequately establish personal jurisdiction over each defendant? At least one defendant is alleged to be a resident of Australia (dkt. 1, para. 14), although the plaintiff has voluntarily dismissed claims against that defendant (dkt. 107). Are each of the defaulting defendants subject to personal jurisdiction?

(b) Subject matter jurisdiction, and abstention. The complaint and motions for default judgment make somewhat vague assertions of other action(s) that were or are pending in other courts apparently involving the same subject matter, and involving at least preliminary injunctive relief if not other relief. Can this Bankruptcy Court assume jurisdiction over matters that are pending in other courts? Must or should this Bankruptcy Court abstain?

(3) Allegations of wrongdoing. Where is the analysis tying each of the defaulting defendants to one or more of the specific acts of wrongdoing bringing them within the claims in the complaint? For example, the only allegation in the complaint regarding Mr. Wilshee (dkt. 1, para. 14) appears to be that he was at one time an officer of the debtor. How is that an act of wrongdoing?

The Wilshee Default Motion seeks a default judgment against Mr. Wilshee of \$431,472,300.00 (dkt. 74, at PDF p.51 of 53). How is he responsible for such alleged damages? Does the complaint need to be amended to establish, as against one or more of the defaulting defendants, how they are alleged to be liable?

(4) Calculation of damages. An exhibit to the plaintiff's motions for default judgments asserts that "Based on Department of Conservation Records [available on a website and/or verified by whom?], these leases [which leases? the ones that allegedly were supposed to be assigned but were not?] were producing 1730 barrels of Oil a day [when?] and "[w]ith today's technology [how is today's technology better?], a conservative figure would be 3500 barrels a day [based on whose expert opinion?] that will be used as a figure for all the losses caused by Western States International [how about other defendants?]." Dkt. 83, Ex.A, at PDF p.17 of 53. The same exhibit shows a calculation of alleged damages based on "Approx Production" of "105,000" which is far more than 3500 barrels (perhaps using a 30-day presumptive month multiplied by 3500 barrels a day?), an "Average Oil Price [from what source?]," and a "Cost [to extract, market, refine, deliver, and sell

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the oil - or some other or different set of things? based on what expert's opinion?]." Based on the foregoing questions, and applying Rule 55(b)(2) (Fed. R. Civ. P.) (incorporated by Rule 7055, Fed. R. Bankr. P.), it appears that additional evidence and a "prove up" hearing will be needed to determine the amount of damages, if not other issues.

(5) Alleged costs, attorney fees, and interest. The debtor/plaintiff asserts \$1 million in costs (dkt. 74 at PDF p.51 of 53) - how is that possible? What are the components? Attorney fees are alleged to be \$300,000 - this case has barely commenced, so how is that possible? Where are the daily time sheets and/or other support for this figure? Prejudgment interest is alleged to be at a 10% rate per year starting 1/1/11. What is the contractual or statutory basis for that interest rate and that commencement date? The purported damages were incurred month by month, so how can interest run from before those damages were incurred?

(6) Declaratory relief. The plaintiff makes broad allegations about the rights under various contracts, or arising from breaches of those contracts or by operation of law. Where is the support for these allegations? The plaintiff cannot place the burden on this court to sort through numerous provisions of various contracts to piece together the plaintiff's theory. The plaintiff must provide specific, easy-to-follow analysis and evidence.

(7) Conclusion. Because the motions for default judgments are both procedurally and substantively deficient in all of the ways set forth above, the tentative ruling is to deny them without prejudice.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/22/17:

Appearances required. This court notes that the parties were directed to file

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

2:00 PM

CONT... Riverwood Gas and Oil LLC

Chapter 11

a joint status report two weeks in advance of this hearing (dkt. 2), but have not done so. In addition, this court notes that the tentative ruling in the main case status conference (calendar no. 3, 8/22/17 at 2:00 p.m.) is to dismiss the main case, which normally would terminate this adversary proceeding. Nevertheless, to preserve all rights in the event that this court were to be persuaded not to dismiss the main case, this court has reviewed the other filed documents and records in this adversary proceeding and issues the following tentative ruling.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below?

(3) Deadlines: This adversary proceeding has been pending since 6/19/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 1/12/18

Expert(s) - deadline for reports: 1/26/18

**United States Bankruptcy Court
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CONT...

Riverwood Gas and Oil LLC

Chapter 11

Expert(s) - discovery cutoff (if different from above): 2/9/18

Dispositive motions to be heard no later than: 3/2/18

Joint Status Report: 11/28/17

Continued status conference: 12/12/17 at 11:00 a.m.

Trial deadlines to be determined at a later time.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

Defendant(s):

Phoenix Oil Gas Inc.

Pro Se

Longbow LLC.

Represented By
D Max Gardner

Leonard Kroyton

Pro Se

Glenn Morinaka

Pro Se

James Robert Zadko

Pro Se

Michael Smushkevich

Pro Se

David Smushkevich

Pro Se

Paul Guiller

Pro Se

Alex Gendelman

Pro Se

Tatyana Grukina

Pro Se

United Pacific Energy Operations

Pro Se

Charles Ross

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

2:00 PM

CONT... Riverwood Gas and Oil LLC

Chapter 11

Tearlach Resources (California) LTD	Pro Se
Gas and Oil Technologies, Inc.	Pro Se
United Pacific Energy Corporation	Pro Se
Ingrid Aliet-Gass	Pro Se
Western States International	Represented By Mitchell E Rishe
DOES 1 through 10, inclusive	Pro Se

Plaintiff(s):

Riverwood Gas and Oil LLC	Represented By Mike Montes
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

2:00 PM

2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

Adv#: 2:18-01057 Riverwood Gas and Oil LLC v. Bureau of Land Management

#10.00 Cont'd Status Conference re: Complaint for Damages, Declaratory Relief and Injunctive Relief for: (1) Violation of Automatic Stay; and (2) Turnover Under 11 U.S.C. § 542 fr. 05/08/18, 06/26/18, 09/18/18, 10/2/18, 12/4/18, 12/18/18, 1/15/19, 2/26/19; 04/02/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference (calendar no. 8, 4/9/19 at 2:00 p.m.).

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the case status conference (calendar no. 1, 4/2/19 at 2:00 p.m.).

Tentative Ruling for 2/26/19

Please see the tentative ruling for the case status conference (calendar no. 10, 2/26/19 at 2:00 p.m.).

Tentative Ruling for 10/2/18

Please see the tentative ruling for the case status conference (calendar no. 4, 10/2/18 at 2:00 p.m.).

Tentative Ruling for 5/8/18

Please see the tentative ruling for the case status conference (calendar no. 10, 5/8/18 at 2:00 p.m.).

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 9, 2019

Hearing Room 1545

2:00 PM

CONT... Riverwood Gas and Oil LLC

Chapter 11

Luis A Solorzano

Defendant(s):

Bureau of Land Management

Represented By
Kevin P VanLandingham

Plaintiff(s):

Riverwood Gas and Oil LLC

Represented By
Luis A Solorzano
Giovanni Orantes

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-23272 Eduardo Reyes Galvez

Chapter 7

**#1.00 Hrg re: Reaffirmation Agreement
[U.S. Bank National Association]**

Docket 30

Party Information

Debtor(s):

Eduardo Reyes Galvez

Represented By
Kevin T Simon

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-23437 Sandra Julie Palacios

Chapter 7

**#2.00 Hrg re: Reaffirmation Agreement
[Americredit Financial Services, Inc.]**

Docket 12

Party Information

Debtor(s):

Sandra Julie Palacios

Represented By
M. Jonathan Hayes

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-23608 Ricardo Martinez Bahena

Chapter 7

**#3.00 Hrg re: Reaffirmation Agreement
[Ford Motor Credit Company LLC]**

Docket 12

Party Information

Debtor(s):

Ricardo Martinez Bahena

Represented By
Lauren M Foley

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-23716 Naomi de la Mora

Chapter 7

**#4.00 Hrg re: Reaffirmation Agreement
[BMW Bank of North America]**

Docket 12

Party Information

Debtor(s):

Naomi de la Mora

Represented By
Daniela P Romero

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-23976 Taylor C. Booze

Chapter 7

**#5.00 Hrg re: Reaffirmation Agreement
[Ally Bank]**

Docket 13

Party Information

Debtor(s):

Taylor C. Booze

Represented By
David Weil

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24156 Ricardo Josue Juarez and Monica Romero Juarez

Chapter 7

**#6.00 Hrg re: Reaffirmation Agreement
[JPMorgan Chase Bank, N.A.]**

Docket 11

Party Information

Debtor(s):

Ricardo Josue Juarez Pro Se

Joint Debtor(s):

Monica Romero Juarez Pro Se

Trustee(s):

Heide Kurtz (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24258 Giang Man Ly

Chapter 7

**#7.00 Hrg re: Reaffirmation Agreement
[Capital One Auto Finance]**

Docket 11

Party Information

Debtor(s):

Giang Man Ly

Represented By
Omar Zambrano

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24344 Kareisha Taeshon Blevins

Chapter 7

**#8.00 Hrg re: Reaffirmation Agreement
[Toyota Motor Credit Corporation]**

Docket 9

Party Information

Debtor(s):

Kareisha Taeshon Blevins

Represented By
Daniel King

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24881 Edward Aguilera

Chapter 7

**#9.00 Hrg re: Reaffirmation Agreement
[Kings Way Gardens MH Estates, LP]**

Docket 11

Party Information

Debtor(s):

Edward Aguilera

Represented By
Samuel Konugres

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24881 Edward Aguilera

Chapter 7

**#10.00 Hrg re: Reaffirmation Agreement
[LBS Financial Credit Union]**

Docket 12

Party Information

Debtor(s):

Edward Aguilera

Represented By
Samuel Konugres

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24877 Alfonso G Pacheco and Carmen A Pacheco

Chapter 7

**#11.00 Hrg re: Reaffirmation Agreement
[Kinecta Federal Credit Union]**

Docket 20

Party Information

Debtor(s):

Alfonso G Pacheco

Represented By
Daniel King

Joint Debtor(s):

Carmen A Pacheco

Represented By
Daniel King

Trustee(s):

John J Menchaca (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24970 Vincent Albert Flores and Daisy Flores

Chapter 7

#12.00 Hrg re: Reaffirmation Agreement
[Cab West, LLC]

Docket 12

Party Information

Debtor(s):

Vincent Albert Flores Sr

Pro Se

Joint Debtor(s):

Daisy Flores

Pro Se

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24980 Sylvia Herrera

Chapter 7

**#13.00 Hrg re: Reaffirmation Agreement
[State Farm Bank, FSB]**

Docket 9

Party Information

Debtor(s):

Sylvia Herrera

Represented By
Marlin Branstetter

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-24999 Richard Baltazar

Chapter 7

**#14.00 Hrg re: Reaffirmation Agreement
[Americredit Financial Services, Inc.]**

Docket 23

Party Information

Debtor(s):

Richard Baltazar

Represented By
Ricardo Nicol

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-25007 Gloria Mondragon Martinez

Chapter 7

#15.00 Hrg re: Reaffirmation Agreement
[Santander Consumer USA Inc.]

Docket 11

***** VACATED *** REASON: Case dismissed**

Party Information

Debtor(s):

Gloria Mondragon Martinez

Represented By
Irma C Coler

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10011 Gwendolyn Yvette Peterson

Chapter 7

**#16.00 Hrg re: Reaffirmation Agreement
[Toyota Motor Credit Corporation]**

Docket 13

Party Information

Debtor(s):

Gwendolyn Yvette Peterson Pro Se

Trustee(s):

Peter J Mastan (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10053 Pedro DelGadillo

Chapter 7

#17.00 Hrg re: Reaffirmation Agreement
[Logix Federal Credit Union]

Docket 9

Party Information

Debtor(s):

Pedro DelGadillo Pro Se

Trustee(s):

Brad D Krasnoff (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10092 Cam Duong Chieng

Chapter 7

**#18.00 Hrg re: Reaffirmation Agreement
[CarMax Auto Finance]**

Docket 8

Party Information

Debtor(s):

Cam Duong Chieng

Represented By
Omar Zambrano

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10132 Pauline Shorters

Chapter 7

**#19.00 Hrg re: Reaffirmation Agreement
[JPMorgan Chase Bank, N.A.]**

Docket 14

Party Information

Debtor(s):

Pauline Shorters

Pro Se

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10160 Mariana Jennys Soto Marquez

Chapter 7

**#20.00 Hrg re: Reaffirmation Agreement
[Balboa Thrift & Loan]**

Docket 14

Party Information

Debtor(s):

Mariana Jennys Soto Marquez Pro Se

Trustee(s):

David M Goodrich (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10208 Tamitra Monique Clark

Chapter 7

#21.00 Hrg re: Reaffirmation Agreement
[Pasadena Service Federal Credit
Union (2015 Nissan Sentra)]

Docket 11

Party Information

Debtor(s):

Tamitra Monique Clark Pro Se

Trustee(s):

Timothy Yoo (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10208 Tamitra Monique Clark

Chapter 7

#22.00 Hrg re: Reaffirmation Agreement
[Pasadena Service Federal Credit
Union (2010 Honda Accord)]

Docket 13

Party Information

Debtor(s):

Tamitra Monique Clark	Pro Se
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Trustee(s):

Timothy Yoo (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10257 Susan L Stonesifer

Chapter 7

**#23.00 Hrg re: Reaffirmation Agreement
[Capital One Auto Finance]**

Docket 13

Party Information

Debtor(s):

Susan L Stonesifer

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10293 Maria Dolores Torres

Chapter 7

#24.00 Hrg re: Reaffirmation Agreement
[Toyota Motor Credit Corporation]

Docket 8

Party Information

Debtor(s):

Maria Dolores Torres

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10408 Silvia M Osejo

Chapter 7

#25.00 Hrg re: Reaffirmation Agreement
[Toyota Motor Credit Corporation]

Docket 9

Party Information

Debtor(s):

Silvia M Osejo

Represented By
Michael H Colmenares

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10788 Ricardo Guadarrama Camacho and Giovanna Rivera

Chapter 7

#26.00 Hrg re: Reaffirmation Agreement
[San Diego County Credit Union]

Docket 10

Party Information

Debtor(s):

Ricardo Guadarrama Camacho

Represented By
Marlin Branstetter

Joint Debtor(s):

Giovanna Rivera

Represented By
Marlin Branstetter

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10792 Mirleydis Del Carmen Rodriguez

Chapter 7

**#27.00 Hrg re: Reaffirmation Agreement
[Logix Federal Credit Union]**

Docket 7

Party Information

Debtor(s):

Mirleydis Del Carmen Rodriguez

Represented By
Marlin Branstetter

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10795 Maria Guadalupe Cornejo Zuniga

Chapter 7

**#28.00 Hrg re: Reaffirmation Agreement
[Toyota Motor Credit Corporation]**

Docket 9

Party Information

Debtor(s):

Maria Guadalupe Cornejo Zuniga

Represented By
Marlin Branstetter

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10916 Rene Fernando Meza

Chapter 7

**#29.00 Hrg re: Reaffirmation Agreement
[TD Auto Finance LLC]**

Docket 9

Party Information

Debtor(s):

Rene Fernando Meza

Represented By
Daniel King

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-10971 Juan Fernando Ramos-Orozco

Chapter 7

#30.00 Hrg re: Reaffirmation Agreement
[Nissan Motor Acceptance Corporation]

Docket 10

Party Information

Debtor(s):

Juan Fernando Ramos-Orozco

Represented By
Michael H Colmenares

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-11041 John Hoover Williams

Chapter 7

#31.00 Hrg re: Reaffirmation Agreement
[Nissan Motor Acceptance Corporation]

Docket 10

Party Information

Debtor(s):

John Hoover Williams

Represented By
Raymond J Bulaon

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-11578 Abraham Neil Seidman

Chapter 7

**#32.00 Hrg re: Reaffirmation Agreement
[Ford Motor Credit Company LLC]**

Docket 15

Party Information

Debtor(s):

Abraham Neil Seidman Pro Se

Trustee(s):

Peter J Mastan (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:19-11737 Marieme B. Djigo

Chapter 7

#33.00 Hrg re: Reaffirmation Agreement
[American Finance & Assoc. Corp.]

Docket 10

Party Information

Debtor(s):

Marieme B. Djigo

Represented By
Eliza Ghanooni

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-19035 Phyllis Yolanda Young

Chapter 7

#34.00 Cont'd hrg re: Reaffirmation Agreement
[Tustin Community Bank]
fr. 1/15

Docket 9

Party Information

Debtor(s):

Phyllis Yolanda Young

Represented By
Lauren M Foley

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

10:00 AM

2:18-19872 Gilberto Alfaro Franco and Beatriz Alfaro

Chapter 7

#35.00 Cont'd hrg re: Reaffirmation Agreement
[Alaska USA Federal Credit Union]
fr. 1/15

Docket 13

Party Information

Debtor(s):

Gilberto Alfaro Franco

Represented By
Lauren M Foley

Joint Debtor(s):

Beatriz Alfaro

Represented By
Lauren M Foley

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 11, 2019

Hearing Room 1545

1:00 PM

2:18-22241 Yasser Emad Sadek

Chapter 13

#1.00 Evidentiary hrg re: Order to show cause

Docket 0

Party Information

Debtor(s):

Yasser Emad Sadek

Represented By
Louis J Esbin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 16, 2019

Hearing Room 1545

1:30 PM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

WVJP 2017-2, LP
vs
DEBTOR

Docket 41

Tentative Ruling:

Grant as provided below, subject to any opposition at the hearing (see order setting this hearing on shortened time, dkt. 49, and notice, dkt. 52, 53). Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

Movant seeks to record an abstract of a previously-renewed judgment. The automatic stay does not apply to such perfection of an interest in property. See 11 U.S.C. 362(b)(3).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or

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previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (which this Court can grant, in appropriate cases, under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there has not been a sufficient showing of any "scheme" to hinder, delay, or defraud Movant, or comparable misconduct.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Requested relief under 11 U.S.C. 108

Movant's alternative request for relief is for a ruling that its time to record its abstract of the renewed judgment is extended under 11 U.S.C. 108. The tentative ruling is that if for some reason this Court were incorrect in its tentative ruling (above) that all Movant seeks is to extend the perfection of its lien, then section 108(c) would apply. The provisions of 108(c) and 362(b)(3) go hand in hand. See *In re Hunters Run Ltd. P'ship*, 875 F.2d 1425, 1428-29 (9th Cir. 1989).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

WVJP 2017-2, LP

Represented By
Mohammad Tehrani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-12429 Dana Hollister

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#1.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/9/19

BOBS, LLC
vs
DEBTOR

Docket 778

Tentative Ruling:

Deny the motion for relief from the automatic stay, including the alternative request for adequate protection payments; all subject to the possibility of setting an evidentiary hearing, as further explained below. Appearances required.

(1) Overview

Bob's, LLC's ("Bobs") has filed its motion for relief from the automatic stay (dkt. 778, 787). Debtor has filed opposition papers (dkt. 805, *and see related procedural matters at* dkt. 780-86, 788, 800). So have the Official Committee of Unsecured Creditors (the "Committee") (dkt. 806), Ms. DeeAnna Staats (dkt. 807), and the Agent under the Court-approved settlement agreement, Dean G. Rallis, Jr., Esq. (the "Agent") (dkt. 808). Bobs has filed a reply (dkt. 812). Debtor has also filed an application to emply a new appraiser (dkt. 813), in the event that this Court sets an evidentiary hearing on the motion.

On the present record, the tentative ruling is to deny the motion (subject to possible continuance for an evidentiary hearing as set forth below). Debtor and the other parties opposing the motion have met their burden under 11 U.S.C. 362(g) (albeit not with the strongest evidence) to establish that, despite Debtor's failure to make adequate protection payments to Bobs, it is adequately protected by an equity cushion.

But the tentative ruling is also that the foregoing is only the best assessment that this Court can make on the present record, within the initial 30-day period under 11 U.S.C. 362(e). The tentative ruling is that there are sufficient grounds to extend the automatic stay through the conclusion of an

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evidentiary hearing and ruling on the value of the various collateral and other liens involved. The tentative ruling is to set that hearing and a briefing schedule as set forth in the tentative ruling for the Status Conference (calendar no. 2, 4/16/19 at 2:00 p.m.).

(2) The statute and its interpretation

(a) Code provisions

Bobs seeks relief under 11 U.S.C. 362(d)(1) or (d)(2), which provide as follows:

- (d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the [automatic stay], such as by terminating, annulling, modifying, or conditioning such stay -
- (1) for cause, including the lack of adequate protection of an interest in property of such party in interest; [or]
- (2) with respect to a stay of an act against property ... if-
- (A) the debtor does not have an equity in such property; and
- (B) such property is not necessary to an effective reorganization [11 U.S.C. 362(d)(1)&(2) (emphasis added)]

There is a 30-day time limit to complete the hearing on a motion for relief from the automatic stay (11 U.S.C. 362(e)), subject to certain exceptions:

- (e) Thirty days after a request under subsection (d) of this section for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the court, after notice and a hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under subsection (d) of this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d) of this section. The court shall order such stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be concluded not later than thirty days after the conclusion of

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such preliminary hearing, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances.

[11 U.S.C. 362(e)(1) (emphasis added)]

The burdens of proof are set forth in 11 U.S.C. 362(g):

(g) In any hearing under subsection (d) or (e) of this section concerning relief from the stay of any act under subsection (a) of this section -

(1) the party requesting such relief has the burden of proof on the issue of the debtor's equity in property; and

(2) the party opposing such relief has the burden of proof on all other issues. [11 U.S.C. 362(g) (emphasis added)]

In addition, in permitting Debtor to use the Paramour and other collateral, this Court must "prohibit or condition" such use "as is necessary to provide adequate protection" of Bobs' interest in such property. 11 U.S.C. § 363(e). In interpreting each of the various portions of the Code, this Court keeps in mind that the words "includes" and "including" are not limiting. 11 U.S.C. 102(3).

(b) Judicial interpretation, in general

The Bankruptcy Appellate Panel for the Ninth Circuit (the "BAP") has held that relief from stay proceedings are summary in nature and have only limited preclusive effect - "a creditor's claim or security is not finally determined in the relief from stay proceeding." *In re Veal*, 450 B.R. 897, 914 (9th Cir. BAP 2011). The BAP has also explained the shifting burdens of proof under section 362(d)(1) as follows:

While neither the Ninth Circuit Court of Appeals nor this Panel have issued a published decision addressing the standard of proof for establishing cause for stay relief under [section] 362(d)(1), the bankruptcy courts within the circuit that have squarely addressed the issue are trending in a single direction. That trend is well-represented by the following quote from [*Plumberex Specialty Prod's, Inc.*, 311 B.R. 551, 559 (Bankr. C.D. Cal. 2004)]:

The burden of proof on a motion to modify the automatic stay is a shifting one. To obtain relief from the automatic stay, the party seeking relief must first establish a prima facie case that "cause" exists for relief under [section] 362(d)(1). Once a

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prima facie case has been established, the burden shifts to the debtor to show that relief from the stay is unwarranted. If the movant fails to meet its initial burden to demonstrate cause, relief from the automatic stay should be denied.

[*Plumberex*] at 557 (citations and footnotes omitted). *Accord, Wang v. Votteler (In re Wang)*, 2010 WL 6259970 at *6 (Mem. Dec.) (9th Cir. BAP Sept. 23, 2010); *In re Am. Spectrum Realty, Inc.*, 540 B.R. 730, 737 (Bankr. C.D. Cal. 2015); *In re Smith*, 389 B.R. 902, 918 (Bankr. D. Nev. 2008). [*In re Advanced Medical Spa Inc.*, 2016 WL 6958130, *4-5 (9th Cir. BAP 2016)]

The BAP also explained in *Advanced Medical* that these shifting burdens are consistent with section 362(g):

This trend is consistent with [section] 362(g), which places the burden of proof on the debtor [and all other parties opposing relief from the automatic stay] on all issues except for the issue of debtor's equity in the property (when relevant). As one leading treatise explains, [section] 362(g) deals with the ultimate burden of persuasion, whereas the rule requiring the party seeking relief from the automatic stay to present a prima facie case of cause deals only with the initial burden of production. See 3 *Collier on Bankruptcy* [para.] 362.10 (16th ed. 2016). [*Advanced Medical*, 2016 WL 6958130, *5 n.4]

(c) "Cause" under section 362(d)(1)

As the parties recognize, "cause" for relief from the automatic stay is a flexible concept, and one example of "cause" is a lack of adequate protection. 11 U.S.C. 362(d)(1). The Bankruptcy Code provides a non-exclusive list of various types of adequate protection, including: (1) periodic cash payments equivalent to the decrease in the value of the creditor's interest in the property; (2) an additional or replacement lien on other property; or (3) other relief that provides the indubitable equivalent. See 11 U.S.C. § 361.

(i) Size of equity cushion

As Bobs argues, a 20% equity cushion is usually considered fully adequate; an equity cushion of approximately half that is usually (but not always) considered inadequate; and between these amounts the outcome depends on the facts and circumstances and the Bankruptcy Court's exercise

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of its discretion. See MPA (dkt. 778, at PFD pp.18 et seq.) p.2:12-22. See also Debtor Opp. (dkt. 805) p.4:12-16; Committee Opp. (dkt. 808) p.5:1-7.

(ii) Effect of section 506(b)

Accruing interest, attorney fees, and other charges are allowed to oversecured creditors under 11 U.S.C. 506(b). But if a creditor is undersecured - if its lien is "underwater" - it is not entitled to periodic "adequate protection" payments under section 362(d)(1) to compensate it for the lost "time value" of money. *United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365 (1988) (involving underwater lien).

Debtor and the Agent argue that this concept should be extended further. They argue that any amounts allowed under section 506(b) - *i.e.*, interest and reasonable attorney fees, costs and charges allowable to oversecured creditors, including either the senior lienholder or Bobs itself - should not count, for purposes of determining whether Bobs is adequately protected by an (alleged) equity cushion. See Debtor Opp. (dkt. 805, p.11:13-17) (citing *Delta Resources, Inc.*, 54 F.3d 722, 730 (11th Cir. 1995)) and Agent Opp. (dkt. 808, p.4:13-27) (same).

The tentative ruling is that Debtor's and Agent's arguments stretch *Timbers* too far. This Court is not aware of appellate authority on point within the Ninth Circuit. The analogous authority is unclear.

For example, one element of the analysis under sections 362(d)(1) and 506(b) is valuation, and "[v]aluation dates in general have been subject to much disagreement." *In re Gutierrez*, 503 B.R. 458, 461 (Bankr. CD Cal. 2013) (Bason, J.). See also, *e.g.*, *In re Alpine Group, Inc.*, 151 B.R. 931 (9th Cir. BAP 1993) (although lien was underwater on petition date, creditor was entitled to benefits of section 506(b) because, after improvements, property was sold for substantially more than lien amount).

In short, the burden is on the parties opposing relief from the automatic stay to show that Bobs is adequately protected. Those parties have not established that the law considers Bobs' interest adequately protected based on an equity cushion that (allegedly) existed as of the petition date, regardless whether that equity cushion is being depleted by charges allowable under section 506(b). This Court emphasizes that this is only the present, tentative ruling, and is subject to further briefing in the event of a continued hearing (see below).

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(iii) Nonpayment as "cause" for relief

Another alleged "cause" for relief from the automatic stay (even if Bobs is adequately protected) is a debtor's failure to make payments for an extended period of time, although it is hotly disputed whether that by itself is sufficient "cause." See, e.g., Debtor Opp. (dkt. 805) pp. 8:1-10:27. The tentative ruling is that, both under the broad words of the statute and under the cases cited by Bobs, a history of non-payment is some cause for relief, even if there is adequate protection, because the concept of adequate protection only accounts for economic protection of the specific claim at issue, not other considerations such as the disruption caused by delay and the creditor's overall cash flow needs.

For example, suppose that a hypothetical debtor has a large equity in the subject property - more than enough to provide adequate protection - but the debtor is not going to use the property for a reorganization or a 363 sale, and is simply using the automatic stay as a sword to inflict a delay in making any payments, or to tie up that creditor's investment so as to deprive it of cash flow. In either of these circumstances, a history of non-payment might constitute "cause" for relief from the automatic stay, even if ultimately the creditor's claim is adequately protected by a large equity cushion.

Bobs' reply papers focus largely on Debtor's failure to live up to the budget that this Court approved for use of cash collateral. The tentative ruling is that, although that is indeed some cause for relief, it is not dispositive. It is part of what this Court must consider in assessing all of the facts and circumstances to determine whether there is cause for relief under section 362(d)(1).

(d) Lack of equity, and necessity of property for an effective reorganization, under section 362(d)(2)

The Supreme Court has held that what section 362(d)(2) requires is "not merely a showing that if there is conceivably to be an effective reorganization, this property will be needed for it; but that the property is essential for an effective reorganization that is in prospect." *Timbers*, 484 U.S. 365, 375-76 (1988) (emphasis added). As *Timbers* itself noted, what amount of time is reasonable depends on the stage of the proceedings and the facts and circumstances of the specific case. See also *In re Sun Valley Ranches*, 823 F.2d 1373 (9th Cir. 1987); *In re Pegasus Agency, Inc.*, 101 F.3d 882 (2d Cir. 1996).

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(3) Evidence

(a) Section 362(d)(1): equity cushion

Bobs asserts that it is not adequately protected based on a combination of four things:

- (i) valuation of the property at 1923 Micheltorena Street, Los Angeles, CA (the "Paramour") at \$14,500,000,
- (ii) an allegedly deteriorating equity cushion due to accruing interest, allowed under 11 U.S.C. 506(b), owed to the holder of the first deed of trust, U.S. Bank, N.A. ("US Bank") and to Bobs itself,
- (iii) unpaid property taxes, and
- (iv) allegedly diminishing value of Bobs' additional collateral known as the Roble Vista property, which appears to be the property commonly known as 1910 Micheltorena St, Los Angeles, CA ("Roble Vista").

(i) Collateral valuation

Bobs has provided an appraisal by a licensed real estate appraiser, valuing Paramour at \$14,500,000 as of 2/15/18. See Adelman Decl. (dkt. 778, Ex.C-F). Bobs' motion does not provide evidence regarding the value of Roble Vista, or liens against that property.

As the Committee argues, there is substantial evidence that the Paramour may have a value between \$21 million and \$44 million or even higher, including Debtor's own opinion. Committee Opp. (dkt. 808), pp.5:20-6:10 & n.2 (citing authority for admissibility of Debtor's opinion of value). Bobs' motion papers include analyses of various asserted deficiencies in any valuation above \$14.5 million, but on the present, limited record, and keeping in mind the summary nature of relief from stay proceedings, the tentative ruling is that there is sufficient evidence to establish a value of the Paramour of not less than \$20 million. (This preliminary, tentative valuation is subject to the tentative ruling regarding possible discovery and an evidentiary hearing, set forth below.)

The value of Roble Vista is addressed separately, below.

(ii) Liens of US Bank and Bobs

Bobs has presented evidence that US Bank's senior lien, was \$4,348,411.79 as of the petition date (3/6/18), with an interest rate of 3.635%. See Claim 14-1; 11 U.S.C. 502(a). Based on those facts Bobs calculates that

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as of 3/5/19 the total owed, pursuant to 11 U.S.C. 506(b), is approximately \$4,506,475. See Brownstein Decl (dkt. 778 at PDF p.16) para. 4-5. This Court has verified that this calculation is approximately correct (using an Excel spreadsheet, this Court has calculated a slightly higher amount, but because there may be more than one legitimate method of calculation - e.g., whether interest accrues at the start or end of each period - and because Bobs' amount is lower than this Court's calculation, the difference is immaterial).

(iii) unpaid property taxes

The motion lists \$4,000 in unpaid property taxes. Id. at PDF p.8. Debtor acknowledges that there are no material disputes about such senior claims. See dkt. 805, 3-4.

(iv) Allegedly diminishing value of Roble Vista

Debtor argues (dkt. 805, p.7:5-10) that it is Bobs' burden to provide evidence as to the valuation of Roble Vista and the dollar amount of liens against it. The tentative ruling is that this is incorrect.

If this part of the discussion concerned paragraph "(2)" of section 362(d), then one of the elements would be whether Debtor lacks any equity in the property, and Bobs would have the burden of proof on that issue under section 362(g). But for purposes of paragraph "(1)" of section 362(d), that issue is irrelevant.

Rather, once Bobs has made its *prima facie* showing of some "cause" for relief, it is the burden of any party opposing that relief to establish adequate protection, such as an equity cushion either from the Paramour or from the other collateral, Roble Vista. See *In re Advanced Medical Spa Inc.*, 2016 WL 6958130, *4-5 & n.4.

Nevertheless, although Debtor has the burden, the tentative ruling is that she has met that burden (albeit not with the strongest evidence). Specifically, the tentative ruling is that Debtor as the owner of Roble Vista is qualified to opine as to its value, and can do so in a couple of ways. First, the valuation in her bankruptcy schedules is some evidence of its value. Debtor's amended Bankruptcy Schedule D (dkt. 277 at PDF pp.28 *et seq.*) lists that property with a value of \$2,400,000.

Second, Debtor asserts that in June of 2018, before the re-zoning issue surfaced, Debtor's predecessor in interest received an offer of \$3 million

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As against the lack of any evidence from Bobs, the tentative ruling is that this Court must accept Debtor's valuation, subject to a downward adjustment to account for the possible effects of re-zoning that became an issue after the two above-referenced measures of value. True, it appears to be undisputed that no re-zoning has yet occurred, and that Debtor might have defenses to any attempted re-zoning. See dkt. 805, p.7:12-18. But any prospective buyer of the property would discount what they were willing to pay based on their assessment of how likely it would be that the zoning change would occur.

There is no evidence to quantify that adjustment, except for Debtor's stated intent to fight any re-zoning as a "taking" in violation of the U.S. Constitution. In the absence of briefing on that issue, the tentative ruling is to discount Debtor's scheduled value of Roble Vista such that its value will be treated as \$2 million for purposes of this tentative ruling.

As for liens, Debtor's bankruptcy schedules and the filed proofs of claim are evidence of liens against Roble Vista. See 11 U.S.C. 502(a), 1111(a). Some of those liens (those of Ms. Staats and the claimants referred to as "Church" and "Bird") are cross-collateralized against other properties as well, which reduces the effect of those liens against any equity in Roble Vista. Again, as against the lack of any evidence from Bobs, the tentative ruling is that this Court must accept Debtor's valuation of those other properties, and the alleged lien amounts against those properties.

The liens on Roble Vista appear to be as follows. Debtor's amended Bankruptcy Schedule D (dkt. 277 at PDF pp.28 *et seq.*) is helpful to figure out which liens apply to which properties, so this tentative ruling uses that source (subject to future adjustment to reflect the dollar amounts in proofs of claim). That Schedule D lists: \$749,484 held by Bank of America (Sch.D, claim 2.1), \$300,000 held by Ms. DeeAnna Staats (*id.*, claim 2.3), \$700,000 also held by Ms. Staats (*id.*, claim 2.4), and the claims of Church and Bird (*id.*, claims 2.8, 2.13 & 2.14), which are secured by all real and personal property of Debtor, and are in the amount of approximately \$15,391,136.57, subject to a reduction to \$7,000,000 pursuant to the settlement (dkt. 528) approved by this Court.

Based on the foregoing, this Court performs the following calculations, starting with (A) all collateral and liens other than Roble Vista and the

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Paramour (not including Brite Spot Diner and Villain's Tavern, because this Court has not determined whether any of the proceeds from the sales of those properties were used to pay down any of the relevant claims), then (B) Roble Vista, and finally (C) the Paramour.

(A) Collateral/liens other than Roble Vista and the

Paramour

<u>Collateral</u>	<u>Value</u>	<u>Liens</u>
1629 Griffith	\$unknown	\$ n/a? (leasehold) dkt.277, Sch.A/B-1.3
1356 Palm.	\$unknown	\$ n/a? (leasehold) dkt.277, Sch.A/B-1.4
Personalty*	\$445,230	\$7,500,000 Church/Bird claim**
Net Church/Bird claim:		\$7,054,770 (i.e. \$7,500,000 - \$445,230)

*Debtor lists furnishings at dkt. 277, PDF p.12, with an alleged value of \$1,484,100. Discounting by 70% for resale value (based on this Court's judicial notice of sales of personalty in other cases), yields collateral value of \$445,230.

** Church's claim is approximately \$10,146,843 (dkt. 277, Sch.D-2.8 & -2.14). Bird's claim is approximately \$5,244,294 (dkt. 277, Sch.D-2.13). These claims have been reduced to an aggregate of \$7,000,000, subject to various contingencies, pursuant to these claimants' settlement with Debtor. To account for these contingencies, this Court increases the claim by \$500,000, for a total estimated present value of \$7,500,000.

(B) Roble Vista

<u>Collateral</u>	<u>Value</u>	<u>Liens other than Bobs</u>
Roble Vista	\$ 2,000,000	\$ 749,484 BofA (dkt. Sch.D-2.1)
		\$1,026,000 Staats (per Brownstein, dkt. 778, para.6)
		\$ 114,000 Specialized (<i>id.</i> , 2.10)
		<u>\$7,054,770</u> Church/Bird (from above)
		\$9,944,254 total liens

Net Church/Bird claim: \$7,944,254 (i.e., \$9,944,254 - \$2,000,000)

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(C) The Paramour

Paramour	\$20,000,000	\$ 4,000	real estate taxes as of petition date
		\$ unknown	unpaid postpetition real estate taxes
		\$ 4,506,475	US Bank (from above)
		<u>\$ 7,944,254</u>	net Church/Bird claim (from above)
Equity available for Bobs:	\$12,455,727		(less any unpaid postpetition r/e taxes)
Bobs' claim:	\$ 9,040,400		(per motion, p.7, including post-pet. int.)
Equity cushion:			very roughly 27%

Based on the foregoing, the tentative ruling is that, solely for present purposes on this preliminary hearing, Bobs is adequately protected by equity cushions in its collateral, the Paramour and Roble Vista.

(b) Section 362(d)(2): any equity in the Paramour, and necessity for an effective reorganization

The tentative ruling is that, although this case is getting old, it is also exceptionally complex. As Debtor argues (dkt. 805, pp.12:21-14:26) she has made sufficient progress to establish, for present purposes, that the Paramour is necessary for an "effective" reorganization, meaning a reasonable possibility of a successful reorganization within a reasonable time. See also Committee Opp. (dkt. 808) p.8:12-28.

(4) Request for alternative forms of adequate protection

The tentative ruling is not to require adequate protection payments, or any other form of adequate protection, at this time. Based on the foregoing, there is a sufficient equity cushion that such payments are not necessary to protect Bobs.

Meanwhile it appears that everyone else (the estate, its other creditors, and Debtor) will be benefitted substantially more by using cash flow to restore and grow the Paramour business rather than by making periodic payments to Bobs.

(5) Possible discovery, and possible evidentiary hearing

As noted above, the foregoing is just a tentative ruling based on the record presently before this Court. If Bobs consents to waive the periods in

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section 362(e), it might or might not be able to obtain a different result after further briefing and an evidentiary hearing to determine the value of collateral and the dollar amount of liens.

The tentative ruling is that there are sufficient grounds under section 362(e) to continue this hearing beyond the usual periods in the statute. The tentative ruling is also that discovery is appropriate, in view of the multiple possible uses of the Paramour and Roble Vista. The parties should be prepared to address those issues at the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 16, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Bob's, LLC's ("Bobs") Relief From Stay Motion (dkt. 778)

On the present record, deny, for the reasons stated in the tentative ruling on that matter (calendar no. 1, 4/16/19 at 2:00 p.m.).

(b) Evidentiary hearing re same

The tentative ruling is to hold an evidentiary hearing, on the value of the various collateral and liens involved, on 6/17/19, commencing at 9:00 a.m., with any supplemental briefs and evidence in support of the motion due 21 days prior, any supplemental opposition briefs and evidence 14 days prior, and any reply 7 days prior.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/21/19 at 2:00 p.m., with a *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... Dana Hollister

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to further extend exclusivity period (dkt. 759) and Committee support (dkt. 775)

Grant, and extend the exclusive period for Debtor to file a plan through 9/3/19 and the exclusive period for Debtor to obtain acceptance of a plan through 11/3/19.

(b) Emergency motion to employ appraiser (dkt. 780)

Grant, at the hourly rates and with the retainer set forth in the motion (dkt. 780, p.16), subject to this Court's review under 11 U.S.C. 327 (not 328) and Judge Bason's other standard conditions (available at www.cacb.uscourts.gov), all subject to any oppositions at the hearing (per this Court's order shortening time, the "OST," dkt. 782, and the timely service thereof, dkt. 788).

Proposed orders: Debtor is directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/16/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... Dana Hollister

Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Payment of professional fees

The parties are directed to address the issues regarding cash collateral and the payment of professional fees. See Status Report (dkt. 758), p.6:1-17.

(b) Debtor's use of funds without authority and/or Church/Bird responsiveness to requests for use of funds

The parties are directed to address Debtor's "cash management" issues. See Status Report (dkt. 758), pp.6:18-7:23.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/2/19 at 2:00 p.m. with a *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

**United States Bankruptcy Court
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2:00 PM

CONT... **Dana Hollister**
appropriate for disposition at this hearing.

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

2:18-23129 Andrik Hernandez and Shavell D Vasser

Chapter 13

#1.00 Hrg re: Motion for Order determining value of collateral creditor: CarMax Auto Finance dba CarMax Business

Docket 24

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrik Hernandez

Represented By
Madhu Kalra

Joint Debtor(s):

Shavell D Vasser

Represented By
Madhu Kalra

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

2:19-11228 Patrick McTizic

Chapter 13

#2.00 Hrg re: Motion for order determining value of collateral
Creditor: Santander Consumer USA

Docket 13

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patrick McTizic

Represented By
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

8:30 AM

2:19-11228 Patrick McTizic

Chapter 13

#3.00 Hrg re: Motion for order determining value of collateral
Creditor: Wells Fargo Dealer Services

Docket 14

Tentative Ruling:

Continue to 5/16/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 4/18/19.

Reasons:

Service

The motion papers were not served:

- (1) To the bank via certified mail (FRBP 7004(h)).
- (2) To the address for notices listed on the proof of claim (or any more recent address designated by the claimant) (Rule 2002(g)(1)).

Note: Service issues are complex, and courts do not always agree on how service must be accomplished, so it is not entirely clear that the foregoing requirements apply in this instance. Even if service does not comply with the applicable rules, this Court does not always note that or raise the issue sua sponte; and if there was some sort of actual notice or deemed notice then that might be sufficient for purposes of due process. Nevertheless, because this matter is being continued anyway for evidentiary reasons (see below) this Court is directing that service be supplemented as set forth above.

Evidence

The proof of value in the motion papers (dkt. 14 at PDF p. 7) is for a 2016 Chevrolet Corvette Stingray Coupe 2D and not for the subject vehicle: a 2014 Chrysler 200 LX Sedan 4D.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Patrick McTizic

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patrick McTizic

Represented By
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:19-11611 Yeni Ramos

Chapter 13

#4.00 Hrg re: Motion for order determining value of collateral
Creditor: U.S. Bank NA/JP Morgan Series 2006-RM1

Docket 25

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Yeni Ramos

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

8:30 AM

2:19-13261 Donn Webb

Chapter 13

#5.00 Hrg re: Motion for order determining value of collateral
Creditor: OneMain Financial, Inc.

Docket 9

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Donn Webb

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

8:30 AM

2:19-10931 Paulett Jones

Chapter 13

#6.00 Hrg re: Motion for order determining value of collateral
Creditor: Santander Consumer USA, dba Chrysler Capital

Docket 16

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Paulett Jones

Represented By
R Grace Rodriguez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

2:19-10400 Philip J Reddick

Chapter 13

**#7.00 Hrg re: Motion to Avoid Lien Under 11
U.S.C. § 522(f) (Real Property)**

Docket 26

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Philip J Reddick

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

8:30 AM

2:15-21732 Blanca Illiana Murillo

Chapter 13

#8.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 58

Tentative Ruling:

Appearances required.

Subject to argument at this hearing, the tentative ruling is to continue this matter to 5/16/19 at 8:30 a.m., to address whether a different disposition of this case is appropriate, such as (a) conversion to chapter 7, or (b) dismissal with a bar against being a debtor in bankruptcy pursuant to 11 U.S.C. 109(g)(1) or (2) (180 days), or pursuant to 11 U.S.C. 105(a), 349, 1307, and this Court's inherent power (different period, or until otherwise ordered). See *In re Glover*, 537 Fed.Appx. 741 (9th Cir. 2013) (affirming dismissal with a five-year bar to refiling under 11 U.S.C. § 105(a)); *In re Leavitt*, 171 F.3d 1219 (9th Cir. 1999) (affirming dismissal with prejudice based upon a finding of bad faith).

The tentative ruling is to set a briefing schedule at the usual times: any motion seeking such relief to be filed and served not less than 21 days prior; any opposition 14 days prior; and any reply 7 days prior (see LBR 9014-1). The parties are directed to address whether there is a danger of dissipation of assets or other cause to act immediately or on shortened time. See 11 U.S.C. 102; Rule 9006 (Fed. R. Bankr. P.); and *In re Rosson*, 545 F.3d 764, 775-76 (9th Cir. 2008).

Analysis:

Before this Court is the Chapter 13 Trustee's motion to modify the confirmed plan (the "MoMod," dkt. 58). Debtor's response (dkt. 61) asserts that this MoMod is moot because (1) the Chapter 13 Trustee filed a motion to dismiss this case (the "MTD," dkt. 56), and (2) after initially opposing dismissal (dkt. 57) Debtor now no longer opposes dismissal (dkt. 60). This Court is not persuaded that the MoMod is necessarily moot.

This Court is concerned that, according to the MoMod (dkt. 58, at PDF p.6), once copies of Debtor's 2017 tax returns were provided to the Trustee, it became apparent that Debtor did not abide by her duty to provide

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CONT...

Blanca Illiana Murillo

Chapter 13

updated information about her income and expenses for 2016 and 2017. Allegedly, during those years she has been paying her creditors far less than her disposable income.

On the one hand, the statute (11 U.S.C. 1307(b)) appears to provide a chapter 13 debtor with an unqualified right to dismiss a case; but on the other hand the statute also provides that the case must be converted if that is in creditors' best interests (11 U.S.C. 1307(c)). (This Court assumes for purposes of this discussion that Debtor's non-opposition to the Trustee's MTD qualifies as a "request" of Debtor within the meaning of section 1307(b); and this discussion also presumes that either Trustee will request conversion under section 1307(c), if that appears to be in the best interest of creditors, or that this Court could do so under section 105(a) - in other words, this discussion presumes that the potential conflict between subsections (b) and (c) of section 1307 will be before this Court.)

In such circumstances, under authority by the Court of Appeals for the Ninth Circuit, this Bankruptcy Court should be guided by what is needed to prevent abuse of the bankruptcy system. Any Ninth Circuit authority is binding on this Bankruptcy Court, unless it has been clearly overruled, and the tentative ruling is that not only has such authority not been clearly overruled, but it appears still to be good law. See *Rosson*, 545 F.3d 764 (relying by analogy on *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365 (2007)); and see *In re Brown*, 547 B.R. 846, 848 (Bankr. SD Cal. 2016) ("Even if this court has the authority to question *Rosson*, which it surely lacks, the court finds that *Rosson's* analysis of *Marrama* was, if anything, corroborated by the later authority of [*Law v. Siegel*, __ U.S. __, 134 S.Ct. 1188 (2014)].").

In other words, it appears that this Court must consider whether conversion to chapter 7, rather than dismissal, is in the best interest of creditors. In addition, even if dismissal is appropriate, it appears necessary to consider whether dismissal should be with or without a bar.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

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CONT... Blanca Illiana Murillo

Chapter 13

Party Information

Debtor(s):

Blanca Illiana Murillo

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

8:30 AM

2:18-24397 Eddie P Lawrence, SR

Chapter 13

#9.00 Hrg re: Objection to Claim Number 4
by Claimant Wilmington Savings Fund /
BSI Financial Services, Inc.

Docket 30

Tentative Ruling:

Deny without prejudice, and abstain in favor of the pending State Court action (dkt. 41-1, Ex. 14) on Debtor's complaint (dkt. 41-1, Ex.13). Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis:

(1) Preclusion

Claimant Wilmington Savings Fund Society ("Wilmington") asserts (dkt. 40) that the State Court's rulings against Debtor on his complaint are preclusive. If that is so, this Bankruptcy Court lacks any power to rule on Debtor's claim objection.

On the one hand, it is true that Debtor's State Court complaint appears to allege the same nucleus of operative fact as Debtor's claim objection. But on the other hand, there does not appear to be any final judgment in the State Court action - its latest rulings appear to be tentative (dkt. 41-1, Ex.14) - and Wilmington has not established tentative rulings are preclusive.

(2) Abstention

The tentative ruling is that abstention applies. The parties have not addressed abstention, but this Bankruptcy Court, as a federal court of limited jurisdiction, must consider whether it applies.

The tentative ruling is that mandatory abstention (28 U.S.C. 1334(c))

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CONT... Eddie P Lawrence, SR

Chapter 13

(2)) might not apply because this claim objection arguably arises under title 11 (11 U.S.C. 502). But this Court need not decide that issue because it appears that permissive abstention applies (28 U.S.C. 1334(c)(1)) under *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1167 (9th Cir.1990).

Under *Tucson Estates*, considerations for permissive abstention include the following (with this Court's tentative rulings in brackets):

- (1) the effect or lack thereof on the efficient administration of the estate if a Court recommends abstention [it would be inefficient to re-litigate the State Court litigation, which favors abstention],
- (2) the extent to which state law issues predominate over bankruptcy issues [the issues appear to be entirely matters of nonbankruptcy law, which favors abstention],
- (3) the difficulty or unsettled nature of the applicable law [inapplicable],
- (4) the presence of a related proceeding commenced in state court or other nonbankruptcy court [the pending State Court proceeding involves the same nucleus of operative facts, which favors abstention],
- (5) the jurisdictional basis, if any, other than 28 U.S.C. § 1334 [none, which favors abstention],
- (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case [Debtor's attempts to retain the house are strongly related to this bankruptcy case, but also to the State Court litigation, so this consideration is neutral],
- (7) the substance rather than form of an asserted "core" proceeding [the issues are all matters of nonbankruptcy law, which favors abstention],
- (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court [it is entirely feasible to defer to the State Court, because there are no issues that are matters of bankruptcy law, which favors abstention],
- (9) the burden of [the bankruptcy court's] docket [this litigation would burden this Bankruptcy Court's docket, and would be duplicative of the State Court litigation, which favors abstention],
- (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties

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CONT...

Eddie P Lawrence, SR

Chapter 13

[Debtor appears to be forum shopping, which favors abstention], (11) the existence of a right to a jury trial [the parties have not addressed this issue, but if it applies it would favor abstention and otherwise it is neutral], and (12) the presence in the proceeding of nondebtor parties [if other defendants in the State Court proceeding are necessary and cannot be made subject to this Court's jurisdiction, that would favor abstention, and otherwise this consideration is neutral]. [*Tucson Estates*, 912 F.2d 1162, 1167 (citation and internal quotation marks omitted)]

Based on the foregoing, the tentative ruling is that permissive abstention is warranted. Indeed, it might be an abuse of this Bankruptcy Court's discretion not to abstain in the circumstances presented, as this Bankruptcy Court understands them.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Eddie P Lawrence SR

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:18-14940 Georgetta Lee Ciufo

Chapter 13

#10.00 Order to show cause why Synchrony and
Cir Law Firm should not be sanctioned for
violating the automatic stay and/or co-debtor
stay

Docket 33

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Georgetta Lee Ciufo

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

2:19-12738 Jorge Reyes

Chapter 13

#11.00 Order to show cause re Dismissal due to simultaneous bankruptcy cases

Docket 5

***** VACATED *** REASON: Case dismissed on 4/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jorge Reyes

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

2:19-12886 Steven Massei

Chapter 13

#12.00 Order to show cause re: Dismissal due to simultaneous bankruptcy cases

Docket 6

Tentative Ruling:

Appearances required. The tentative ruling is to dismiss this case, for the reasons set forth below.

This Court issued an order to show cause why this case should not be dismissed (the "OSC," dkt. 6) because there is another bankruptcy case pending (Case No. 2:17-bk-18996-WB) (the "Other BK"). As stated in the OSC, simultaneous bankruptcy cases are only permissible if the second case has been filed in good faith, considering the totality of the circumstances. *In re Blendheim*, 803 F.3d 477, 499-501 (9th Cir. 2015). That inquiry includes, but is not limited to:

(1) whether the debtor misrepresented facts in his petition or plan, unfairly manipulated the Bankruptcy Code, or otherwise filed [the bankruptcy] petition or plan in an inequitable manner; (2) the debtor's history of filings and dismissals; (3) whether the debtor only intended to defeat state court litigation; and (4) whether egregious behavior is present. [*Blendheim*, 803 F.3d at 499 (quoting in *In re Leavitt*, 171 F.3d 1219, 1224 (9th Cir.1999) (quotation marks omitted). See also *In re Grimes*, 117 B.R. 531, 536 (9th Cir. B.A.P. 1990) (considering whether the debtor has received a discharge in the first case).]

Debtor's response (dkt. 14) states that he filed this case because "[a] my home was to be sold [at] auction on March 19th, 2019 [i.e., the day after Debtor filed this case, on 3/18/18], and [b] my other bankruptcy [case] to my understanding is close to discharge. ... I had no choice but to file & try to save my family's home." Debtor has also filed his chapter 13 plan (the "Plan," dkt. 18) and various bankruptcy schedules (the "Schedules," dkt. 19).

Debtor's Other BK is was a chapter 11 case filed on 7/25/17 and converted to chapter 7 on 5/4/18. Creditor Wilmington Sav. Fund Soc. ("Wilmington") was granted relief from the automatic stay on 1/23/19 to

**United States Bankruptcy Court
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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

CONT...

Steven Massei

Chapter 13

proceed with foreclose proceedings regarding Debtor's home. Dkt. 128.

Despite being represented by attorneys in the Other BK (first one attorney, and then another), Debtor failed to file mandatory documents. See *generally* Other BK (Case No. 2:17-bk-18996-WB), dkt. 64. In addition, the documents that Debtor did file showed an inability to generate sufficient income to pay the mortgage, let alone other debts, despite many months to attempt to increase income. See, e.g., Other BK, dkt. 64, 93. In addition, Debtor's anticipated chapter 7 discharge in the Other BK will do nothing to get rid of the multiple creditors' liens that Debtor previously attempted to avoid, without success. See Other BK, dkt. 88.

In this chapter 13 case (Case No. 2:19-bk-12886-NB), Debtors' Plan is almost completely blank, except for a proposed payment to one out of several secured creditors. See dkt. 18, p.6. Debtor's Bankruptcy Schedules J (expenses) has nothing but "\$0" for each item. Dkt. 19 at PDF pp. 31-33.

Although this Court recognizes that losing a home is tragic, the tentative ruling is that (1) Debtor has attempted unfairly to manipulate the Bankruptcy Code by filing this case without any realistic hope of being able to use any legitimate means to retain the home; (2) Debtor's history of filings shows that he had a very considerable period of time during the Other BK in which to attempt to increase his income, reduce his mortgage and other debts through loan modifications or lien avoidance or other means, and, if feasible, retain his home; (3) in filing this case, Debtor appears only to have intended to defeat the nonjudicial foreclosure; and (4) Debtor's representation that he has "\$0" in expenses is egregious, and alternatively his Plan's proposed treatment of only one of several secured creditors is egregious.

Although it is understandable that Debtor would want to use any and all means to retain his home, that does not mean that he can simply file repeated bankruptcy cases with no realistic hope of being able to retain his home through legitimate means. The tentative ruling is to dismiss this case as not being filed in good faith.

After the hearing date *this Court will prepare an order.*

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT...

Steven Massei

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Steven Massei

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

2:13-25508 Luis Alfonso Duran and Alejandra Janeth Campos

Chapter 13

#13.00 Cont'd hrg re: Motion to Avoid Junior Lien on Principal Residence with Creditor: Delphi Financial Corporation fr. 4/5/18, 5/3/18, 08/02/18, 09/27/18, 11/29/18, 1/24/19

Docket 79

***** VACATED *** REASON: off calendar per ruling on 3/26/19**

Tentative Ruling:

Party Information

Debtor(s):

Luis Alfonso Duran

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Joint Debtor(s):

Alejandra Janeth Campos

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Movant(s):

Luis Alfonso Duran

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Alejandra Janeth Campos

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

2:18-20628 Michael Richard Simmons

Chapter 13

#14.00 Cont'd hrg re: Objection to Claim Number 3
by Claimant Americredit Financial Services, Inc.,
dba GM Financial
fr. 3/21/19

Docket 23

Tentative Ruling:

Tentative Ruling for 4/9/19:

Grant. Appearances are not required.

This Court expressly finds that Counsel has provided a cost/benefit analysis (dkt. 27) that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections, so any limitation on fees in the prior tentative ruling on this matter is hereby vacated. In future, counsel is cautioned to provide a cost/benefit analysis within the claim objection.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/21/19:

Continue to 4/18/19 at 8:30 a.m. to address the following issues.

Appearances are not required on 3/21/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting

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8:30 AM

CONT...

Michael Richard Simmons

Chapter 13

to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

CONT... Michael Richard Simmons Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michael Richard Simmons

Represented By
D Justin Harelik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

2:18-20818 Marcelino Torres

Chapter 13

#15.00 Cont'd hrg re: Motion to Avoid Lien with JNC, Inc., a California Corporation c/o Evan A. Clark, Esq., its Successors and/or Assigns
fr. 12/20/18, 1/24/19, 3/21/19

Docket 22

Tentative Ruling:

This Court anticipates issuing a written Memorandum Decision prior to the hearing. Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marcelino Torres

Represented By
Kevin T Simon

Movant(s):

Marcelino Torres

Represented By
Kevin T Simon
Kevin T Simon
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, April 18, 2019

Hearing Room 1545

8:30 AM

2:18-24110 Elfego Martinez Dominguez and Floriberta Martinez Cruz

Chapter 13

#16.00 Cont'd hrg re: Objection to Proof of Claim Number 2
fr. 03/21/19

Docket 20

*** VACATED *** REASON: Withdrawal of Objection to Proof of Claim
Filed 04/15/19 (Dkt. 40)

Tentative Ruling:

Party Information

Debtor(s):

Elfego Martinez Dominguez

Represented By
Suzette Douglas

Joint Debtor(s):

Floriberta Martinez Cruz

Represented By
Suzette Douglas

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, April 18, 2019

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Thursday, April 18, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, April 18, 2019

Hearing Room 1545

11:00 AM

2:18-23206 Almeta L Powell

Chapter 13

#2.00 Hrg re: Motion to Commence Loan Modification
Management Program (LMM)

Docket 57

Tentative Ruling:

Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Almeta L Powell

Represented By
David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, April 22, 2019

Hearing Room 1545

10:00 AM

2:19-10762 Koi Design LLC

Chapter 11

#1.00 Cont'd hrg re: Emergency Motion for Authority to: (A) Use Cash
Collateral on an Interim Basis Pending a Final Hearing;
(B) Grant Replacement Liens; and (C) Set Final Hearing
fr. 01/30/19, 03/05/19, 3/26/19, 4/9/19

Docket 4

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, April 22, 2019

Hearing Room 1545

10:00 AM

2:19-10762 Koi Design LLC

Chapter 11

#2.00 Cont'd hrg re: Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d) Debtor's Notice of Emergency Motion and Emergency Motion for Entry of Interim and Final Orders: (I) Authorizing the Debtor to Obtain Postpetition Financing; (II) Authorizing Use of Cash Collateral; (III) Granting Liens and Super-Priority Claims; (IV) Granting Adequate Protection to Prepetition Secured Lender; (V) Modifying the Automatic Stay; (VI) Scheduling a Final Hearing; and (VII) Granting Related Relief fr. 4/9/19

Docket 129

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, April 22, 2019

Hearing Room 1545

10:00 AM

2:19-10762 Koi Design LLC

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19

Docket 1

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, April 26, 2019

Hearing Room 1545

11:00 AM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#1.00 Discovery dispute

Docket 0

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling. This telephonic conference has been set to address a discovery dispute, per the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov). At the telephonic conference this Court can determine what procedures may be appropriate for any request for relief.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Friday, April 26, 2019

Hearing Room 1545

2:00 PM

2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#1.00 Telephonic conference

Docket 0

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling. This telephonic conference has been set at the request of creditor Mazakoda, Inc. This Court understands that the topics might include clarification of, or procedures for reconsideration of, this Court's recent ruling regarding any extension of time to seek relief under 11 U.S.C. 523 and/or 727. Whatever the topic, this Court neither requires nor expects any filed documents prior to this telephonic conference. At the telephonic conference this Court can determine what procedures may be appropriate for any request for relief.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, April 29, 2019

Hearing Room 1545

10:00 AM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Hrg re: Joint Motion to Approve Bid Procedures and
Break Up Fee in Connection with Proposed Sale of
Leashold Interest

Docket 815

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2,
4/29/19 at 10:00 a.m.).

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, April 29, 2019

Hearing Room 1545

10:00 AM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Sale procedures motion, re leasehold interest in 1629 Griffith Park Blvd. (dkt. 778)

Grant, with a reservation of all rights for the Presbytery of the Pacific (the "Presbytery") with respect to any objection to the sale motion, including but not limited to any objection to assumption and assignment of the leasehold and Debtor's development and guaranty obligations. In addition, the parties are directed to address the deadline(s) and procedures for any objections by the Presbytery, given the short time between the proposed auction date (6/25/19), any filing of evidence of assurance of future performance, and the proposed sale hearing date (7/2/19). See dkt. 815, p.9, n.4.

In addition, the proposed notice (dkt.815, Ex.2) must specify that the hearing time is 2:00 p.m. (on 7/2/19). See *id.*, p.74, section VIII (entitled "Sale Hearing"). In addition, the proposed notice should be amended to clarify that any Backup Bid will be not just the "next highest" but the "next highest and best" bid after the Successful Bid (as determined by the Agent after consultation with Debtor and confirmation by this Court).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

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Judge Neil Bason, Presiding
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Monday, April 29, 2019

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10:00 AM

CONT...

Dana Hollister

Chapter 11

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/21/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Bob's, LLC's ("Bobs") Relief From Stay Motion (dkt. 778)

On the present record, deny, for the reasons stated in the tentative ruling on that matter (calendar no. 1, 4/16/19 at 2:00 p.m.).

(b) Evidentiary hearing re same

The tentative ruling is to hold an evidentiary hearing, on the value of the various collateral and liens involved, on 6/17/19, commencing at 9:00 a.m., with any supplemental briefs and evidence in support of the motion due 21 days prior, any supplemental opposition briefs and evidence 14 days prior, and any reply 7 days prior.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/21/19 at 2:00 p.m., with a *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status

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Judge Neil Bason, Presiding
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Monday, April 29, 2019

Hearing Room 1545

10:00 AM

CONT... Dana Hollister
conference).

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to further extend exclusivity period (dkt. 759) and Committee support (dkt. 775)

Grant, and extend the exclusive period for Debtor to file a plan through 9/3/19 and the exclusive period for Debtor to obtain acceptance of a plan through 11/3/19.

(b) Emergency motion to employ appraiser (dkt. 780)

Grant, at the hourly rates and with the retainer set forth in the motion (dkt. 780, p.16), subject to this Court's review under 11 U.S.C. 327 (not 328) and Judge Bason's other standard conditions (available at www.cacb.uscourts.gov), all subject to any oppositions at the hearing (per this Court's order shortening time, the "OST," dkt. 782, and the timely service thereof, dkt. 788).

Proposed orders: Debtor is directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/16/19 at 2:00 p.m., no status report required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, April 29, 2019

Hearing Room 1545

10:00 AM

CONT...

Dana Hollister

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Payment of professional fees

The parties are directed to address the issues regarding cash collateral and the payment of professional fees. See Status Report (dkt. 758), p.6:1-17.

(b) Debtor's use of funds without authority and/or Church/Bird responsiveness to requests for use of funds

The parties are directed to address Debtor's "cash management" issues. See Status Report (dkt. 758), pp.6:18-7:23.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/2/19 at 2:00 p.m. with a *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
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Los Angeles
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Monday, April 29, 2019

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10:00 AM

CONT... Dana Hollister

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:14-27760 Satheesh Sivadasan

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK
vs
DEBTOR

Docket 72

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Satheesh Sivadasan

Chapter 13

Party Information

Debtor(s):

Satheesh Sivadasan

Represented By
Paul Horn

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:16-12553 Nick Anthony Amparano

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 49

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Nick Anthony Amparano

Chapter 13

Party Information

Debtor(s):

Nick Anthony Amparano

Represented By
Jeffrey B Smith

Movant(s):

U.S. Bank, National Association, as

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-11689 Dana A Scarborough

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON TRUST CO
VS
DEBTOR

Docket 60

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dana A Scarborough

Represented By
Julie J Villalobos

Movant(s):

The Bank of New York Mellon Trust

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-24933 Maria Perez and Jose L Perez

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA, NA
vs
DEBTOR

Docket 39

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Maria Perez and Jose L Perez

Chapter 13

Party Information

Debtor(s):

Maria Perez

Represented By
Nima S Vokshori
Luke Jackson

Joint Debtor(s):

Jose L Perez

Represented By
Nima S Vokshori
Luke Jackson

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Robert T Phifer
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-25005 Jose Luis Macias

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

21st MORTGAGE CORPORATION
vs
DEBTOR

Docket 58

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Jose Luis Macias

Chapter 13

Party Information

Debtor(s):

Jose Luis Macias

Represented By
Jaime A Cuevas Jr.

Movant(s):

21st Mortgage Corporation

Represented By
Diane Weifenbach
Rosaline S Ayoub

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-11355 Katherine C. Ford

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

BAYVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 31

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Katherine C. Ford

Represented By
Thomas B Ure

Movant(s):

Bayview Loan Servicing, LLC., as

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-16735 Sarkis Minasyan

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 42

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Sarkis Minasyan

Represented By
Robert T Chen

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Gwendolyn C McClain
Melissa A Anderson
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-16735 Sarkis Minasyan

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

COMPASS ALTERNATIVE INVESTMENTS, LLC
vs
DEBTOR

Docket 44

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order - e.g., a deadline for refinancing (see the debtor's response, dkt. 47).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sarkis Minasyan

Represented By
Robert T Chen

Movant(s):

Compass Alternative Investments,

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-18094 Janene Lynette Henderson

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

BAYVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(4) and (j): there is no automatic stay because (a) Debtor's first prior case (#16-2358) was dismissed (on 11/14/17) within one year before this case was filed (on 7/16/18), (b) Debtor's second prior case (#17-24618) was dismissed (on 4/13/18) within one year before this case was filed (on 7/16/18), (c) those dismissals were not under 11 U.S.C. 707(b), and (d) no finding of good faith was timely sought and obtained in this case. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Janene Lynette Henderson

Chapter 13

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Janene Lynette Henderson

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Janene Lynette Henderson

Represented By
Julie J Villalobos

Movant(s):

BAYVIEW LOAN SERVICING,

Represented By
Edward G Schloss

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-20421 Robert Anthony Holt

Chapter 13

#10.00 Hrg re: Motion for relief from stay [RP]

GUILD MORTGAGE COMPANY
vs
DEBTOR

Docket 37

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Robert Anthony Holt

Chapter 13

Party Information

Debtor(s):

Robert Anthony Holt

Represented By
Raj T Wadhvani

Movant(s):

Guild Mortgage Company

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-20844 Darren C. Strothers

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

BBV PROFIT SHARING PLAN
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order - e.g., a deadline for sale (see the debtor's response, dkt. 36, and the movant's reply, dkt. 37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Darren C. Strothers

Represented By
Daniel King

Movant(s):

BBV profit sharing plan

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-22545 Myesha Nicole Sherrer

Chapter 13

#12.00 Hrg re: Motion for relief from stay [RP]

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 43

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 46).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Myesha Nicole Sherrer

Represented By
Andrew Moher

Movant(s):

Lakeview Loan Servicing, LLC., and

Represented By
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-22918 Rosita Bello

Chapter 13

#13.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 45

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT...

Rosita Bello

Chapter 13

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Rosita Bello

Chapter 13

Party Information

Debtor(s):

Rosita Bello

Represented By
Matthew D. Resnik

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-24350 Pedro Gonzalez, Jr.

Chapter 13

#14.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 17

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Pedro Gonzalez Jr.

Represented By
Sam Benevento

Movant(s):

The Bank of New York Mellon., et al

Represented By
Asya Landa
S Renee Sawyer Blume

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-24903 Evelio Bonilla

Chapter 7

#15.00 ***[CASE DISMISSED ON 03/28/2019]***

Hrg re: Motion for relief from stay [RP]

U.S. BANK N.A.

vs

DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1),(d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

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Tuesday, April 30, 2019

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CONT...

Evelio Bonilla

Chapter 7

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Evelio Bonilla

Chapter 7

Debtor(s):

Evelio Bonilla

Pro Se

Movant(s):

U.S. Bank N.A., as trustee, on behalf

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-10388 Edith M. Duarte

Chapter 13

#16.00 Hrg re: Motion for relief from stay [RP]

MILESTONE FINANCIAL, LLC
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Edith M. Duarte

Chapter 13

Party Information

Debtor(s):

Edith M. Duarte

Represented By
Leo Fasen

Movant(s):

Milestone Financial, LLC

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-10494 Jose Guadalupe Zavala Pena

Chapter 13

#17.00 Hrg re: Motion for relief from stay [RP]

METROPOLITAN LIFE INSURANCE CO
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

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CONT...

Jose Guadalupe Zavala Pena

Chapter 13

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Jose Guadalupe Zavala Pena

Chapter 13

Party Information

Debtor(s):

Jose Guadalupe Zavala Pena

Represented By
Michael Avanesian

Movant(s):

Metropolitan Life Insurance

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-11151 Finis Lawrence Adams

Chapter 13

#18.00 **[CASE DISMISSED ON 04/22/2019]**

Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 23

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(3): there is no automatic stay because (a) Debtor's prior case (#2:18-bk-21271-VZ) was dismissed (on 10/15/18) within one year before this case was filed (on 2/4/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

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CONT... Finis Lawrence Adams

Chapter 13

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there is insufficient evidence on the record to convince this Court that Debtor is involved in a scheme to delay, hinder, or defraud the Movant as is required under 362(d)(4) or the other authorities cited above.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finis Lawrence Adams

Pro Se

Movant(s):

The Bank of New York Mellon FKA

Represented By
Darren J Devlin

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Central District of California
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CONT... Finis Lawrence Adams

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-12756 Cher Wang

Chapter 13

#19.00 Hrg re: Motion for relief from stay [RP]

BB WELLS INVESTMENT INC.
vs
DEBTOR

Docket 16

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

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CONT...

Cher Wang

Chapter 13

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cher Wang

Pro Se

Movant(s):

BB Wells Investment Inc.

Represented By
James S Yan

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-13425 Imelda Lozano

Chapter 13

#20.00 Hrg re: Motion for relief from stay [RP]

ANGELA SCOTT, TRUSTEE OF THE JDS CORPORATION
PURCHASE MONEY PLAN
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within

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Imelda Lozano

Chapter 13

two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you

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CONT... Imelda Lozano

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Imelda Lozano

Pro Se

Movant(s):

Angela Scott, Trustee of the JDS

Represented By
Benjamin R Levinson ESQ

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:19-11783 Greg Phillips

Chapter 13

#21.00 Hrg re: Motion for relief from stay [RP]

ACM PS ALAMOSA LLC
vs
DEBTOR

Docket 14

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Greg Phillips

Chapter 13

Party Information

Debtor(s):

Greg Phillips

Pro Se

Movant(s):

ACM PS Alamosa LLC

Represented By
Martin W. Phillips

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

10:00 AM

2:19-11783 Greg Phillips

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/9/19

NPI DEBT FUND I, LP
vs
DEBTOR

Docket 12

Tentative Ruling:

Tentative Ruling for 4/30/19:

Lift the temporary stay on the prior order (dkt. 17) granting relief, because Debtor has not filed any supplemental papers by the 4/23/19 deadline in that order. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 4/9/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

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CONT...

Greg Phillips

Chapter 13

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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CONT... Greg Phillips

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Greg Phillips

Pro Se

Movant(s):

NPI Debt Fund I, LP

Represented By
Christopher Minier

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:16-21987 Nelson CK Peleras and Elsie N. Peleras

Chapter 13

#23.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORP
vs
DEBTOR

Docket 61

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Central District of California
Los Angeles
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Nelson CK Peleras and Elsie N. Peleras

Chapter 13

Party Information

Debtor(s):

Nelson CK Peleras

Represented By
Sam Benevento

Joint Debtor(s):

Elsie N. Peleras

Represented By
Sam Benevento

Movant(s):

Toyota Motor Credit Corporation,

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-17148 Valerie Louise West

Chapter 13

#24.00 [CASE DISMISSED ON 3/28/19]

Hrg re: Motion for relief from stay [PP]

BRIDGEST CREDIT COMPANY, LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have

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CONT... Valerie Louise West

Chapter 13

any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Valerie Louise West

Represented By
Heather J Canning

Movant(s):

Bridgecrest Credit Company, LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-22047 Shaquandway Bates

Chapter 13

#25.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 101

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Shaquandway Bates

Chapter 13

Party Information

Debtor(s):

Shaquandway Bates

Represented By
Justin D Graham

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-24478 Tiresa Dunelle Ulufale

Chapter 13

#26.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC
VS
DEBTOR

Docket 26

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Tiresa Dunelle Ulufale

Represented By
Elena Steers

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#27.00 Hrg re: Motion for relief from stay [PP]

ALLY BANK
vs
DEBTOR

Docket 74

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Los Angeles
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10:00 AM

CONT... Jackies Cookie Connection LLC

Chapter 11

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

Movant(s):

Ally Bank

Represented By
Adam N Barasch

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-12254 Hiram De Los Rios

Chapter 13

#28.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORP
vs
DEBTOR

Docket 18

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Hiram De Los Rios

Represented By
Ryan A. Stubbe

Movant(s):

Toyota Motor Credit Corporation,

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#29.00 Hrg re: Motion for relief from stay [NA]

JOSEPH M. BARRETT
vs
DEBTOR

Docket 205

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and

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Central District of California
Los Angeles
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CONT... Philip James Layfield
scope of any bankruptcy discharge.

Chapter 7

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

This Bankruptcy Court emphasizes that it does not seek in any way to impinge on the authority of the Nonbankruptcy Courts presiding over the nonbankruptcy action. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage this bankruptcy case. Those obligations including taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and preserving the bankruptcy estate by placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions

**United States Bankruptcy Court
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10:00 AM

CONT...

Philip James Layfield

Chapter 7

only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly: the Plaintiffs in the underlying malpractice actions have requested jury trials, cannot be brought under the jurisdiction of the bankruptcy court, and are asserting state law claims.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Movant(s):

Joseph M. Barrett

Represented By
Damion Robinson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

10:00 AM

CONT... Philip James Layfield

Chapter 7

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-12569 Guillermo B Moreno

Chapter 13

#30.00 Hrg re: Motion for relief from stay [NA]

TIMOTHY J. YOO
vs
DEBTOR

Docket 15

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the motion, the opposition (dkt. 18), and the reply (dkt. 20).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Guillermo B Moreno

Represented By
Ramiro Flores Munoz

Movant(s):

Timothy J Yoo

Represented By
Carmela Pagay

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-13256 David Benitez Martinez

Chapter 13

#31.00 Hrg re: Motion for relief from stay [UD]

NICHOLAS ALVINO
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does apply

Deny the request for an order confirming that no stay is in effect. Movant has not established an exception to the automatic stay under 11 U.S.C. 362(b) or (c) because the movant has not obtained a prepetition unlawful detainer judgment, and movant has not established that the property is endangered. See 11 U.S.C. 362(b)(22), (23) and (l) and (b).

Nevertheless, the tentative ruling is to grant relief from the automatic stay as set forth below.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

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Los Angeles
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10:00 AM

CONT... David Benitez Martinez

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David Benitez Martinez

Pro Se

Movant(s):

Nicholas Alvino

Represented By
Joseph Trenk

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-13286 DeJohn Wills

Chapter 13

#32.00 Hrg re: Motion for relief from stay [UD]

EMVA HOLDINGS, LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... DeJohn Wills

Chapter 13

Party Information

Debtor(s):

DeJohn Wills

Pro Se

Movant(s):

Emva Holdings, LLC

Represented By
Vic Rodriguez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:19-13978 Emmanuel Perez

Chapter 13

#33.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 5

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Emmanuel Perez

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Emmanuel Perez

Represented By
Jaime A Cuevas Jr.

Movant(s):

Emmanuel Perez

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-10379 Sandra Lisa Sandoval

Chapter 13

#34.00 Hrg re: Motion requesting clarification on order granting relief from the automatic stay

Docket 85

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address what aspects of the Relief From Stay Order (dkt. 58) require clarification, and how best to coordinate the shared responsibilities over property as between the Superior Court and this Bankruptcy Court.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sandra Lisa Sandoval

Represented By
Raymond Perez

Movant(s):

JOSE MEJIA

Represented By
Jonathan T Nguyen
Cynthia Grande

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:15-23009 Terry Tramble

Chapter 13

#35.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/02/19

WILMINGTON TRUST, NATIONAL ASSOCIATION
vs
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 4/30/19:
Appearances required.

At the hearing on 4/2/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:
Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

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Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

10:00 AM

CONT...

Terry Tramble

Chapter 13

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Terry Tramble

Represented By
John M Boyko

Movant(s):

WILMINGTON TRUST,

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:15-23257 Phillip II Oh and April Ingrid Oh

Chapter 13

#36.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 65

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Phillip II Oh

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

April Ingrid Oh

Represented By
Ramiro Flores Munoz

Movant(s):

Deutsche Bank National Trust

Represented By
Erin M McCartney
Asya Landa
Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:15-26836 Callie Ball

Chapter 13

#37.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19, 4/9/19

VALLEY LOAN PORTFOLIO, LLC
VS
DEBTOR

Docket 48

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Callie Ball

Represented By
Axel H Richter

Movant(s):

Valley Loan Portfolio, LLC

Represented By
Glen Dresser

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:15-27558 Kelle Denise Warren

Chapter 13

#38.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/08/19; 02/26/19, 3/26/19

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 47

Tentative Ruling:

Tentative Ruling for 4/30/19 (same as for 3/26/19, 2/26/19):

Appearances required. At the hearing on 1/8/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... **Kelle Denise Warren** **Chapter 13**
present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kelle Denise Warren

Represented By
Ali R Nader

Movant(s):

U.S. Bank National Association

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:16-14777 Danney Tarence Lewis and Katrina S. Lewis

Chapter 13

#39.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/26/19, 3/26/19

MIDFIRST BANK
vs
DEBTOR

Docket 45

Tentative Ruling:

Tentative Ruling for 4/30/19 (same as for 3/26/19 and 2/26/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 47).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Danney Tarence Lewis

Represented By
Jeffrey N Wishman

Joint Debtor(s):

Katrina S. Lewis

Represented By
Jeffrey N Wishman

Movant(s):

MidFirst Bank

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Danney Tarence Lewis and Katrina S. Lewis

Chapter 13

Kelsey X Luu
Arnold L Graff
Cassandra J Richey
Darlene C Vigil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-11281 Muriel Ann Carr

Chapter 13

#40.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/11/18, 1/8/19, 3/26/19

CHAMPION MORTGAGE COMPANY
VS
DEBTOR

Docket 32

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Muriel Ann Carr

Represented By
Julius Johnson

Movant(s):

Champion Mortgage Company

Represented By
Sean C Ferry
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-11589 Thomas Michael Moore

Chapter 13

#41.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/9/19

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 63

Tentative Ruling:

Tentative Ruling for 4/30/19 (same as for 4/9/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 65).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Thomas Michael Moore

Represented By
Eliza Ghanooni

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Austin P Nagel
Emily M Marchino
John Tamburo

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

CONT... Thomas Michael Moore

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-20919 Manuel Cruz and Rosa Cruz

Chapter 13

#42.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

U.S. BANK, NA
vs
DEBTOR

Docket 43

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Manuel Cruz

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Rosa Cruz

Represented By
Jaime A Cuevas Jr.

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-22668 Lawrence K Burkley

Chapter 13

#43.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/02/19

NATIONS DIRECT MORTGAGE, LLC
VS
DEBTOR

Docket 37

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Lawrence K Burkley

Represented By
Donna R Dishbak

Movant(s):

Nations Direct Mortgage, LLC

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:17-23741 Marshall Stewart, Jr.

Chapter 13

#44.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 28

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Marshall Stewart Jr.

Represented By
Daniel King

Movant(s):

The Bank Of New York Mellon,

Represented By
Diana Torres-Brito
S Renee Sawyer Blume

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-10476 Gene Hernandez

Chapter 13

#45.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

BANK OF AMERICA, N.A.
VS
DEBTOR

Docket 44

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Gene Hernandez

Represented By
Nicholas M Wajda

Movant(s):

Bank of America, N.A.

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-17614 Maria C Ricalday

Chapter 13

#46.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

U.S. BANK TRUST, NA
vs
DEBTOR

Docket 37

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Maria C Ricalday

Represented By
Leonard Pena

Movant(s):

U.S. Bank Trust, N.A., as Trustee for

Represented By
Merdaud Jafarnia
Francis Laryea
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-18061 Antonio Gonzales

Chapter 13

#47.00 Cont'd hrg re: Order to Show Cause as to Why LoanMe, Inc. Should Not be Held in Contempt for Violation of the Automatic Stay and Order Them to Pay Compensatory and Punitive Damages fr. 3/26/19

Docket 33

***** VACATED *** REASON: Voluntary Dismissal of Motion Filed on 04/26/19 (Dkt. 45)**

Tentative Ruling:

Party Information

Debtor(s):

Antonio Gonzales

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Antonio Gonzales

Represented By
Stephen S Smyth
William J Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:18-20086 Jose Mauro Reyes and Maria Teresa Reyes

Chapter 13

#48.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19, 4/9/19

FIRST CITY CREDIT UNION
VS
DEBTOR

Docket 27

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Jose Mauro Reyes

Represented By
Barry E Borowitz

Joint Debtor(s):

Maria Teresa Reyes

Represented By
Barry E Borowitz

Movant(s):

First City Credit Union

Represented By
Karel G Rocha

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, April 30, 2019

Hearing Room 1545

10:00 AM

2:15-11521 Alma Jean Anderson

Chapter 13

#49.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/6/18, 11/27/18, 01/08/19; 02/26/19,
03/26/19

PROF-2013-S3 LEGAL TITLE TRUST II
vs
DEBTOR

Docket 66

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed
04/12/19 (Dkt. 75)

Tentative Ruling:

Party Information

Debtor(s):

Alma Jean Anderson

Represented By
William J Smyth
Stephen S Smyth

Movant(s):

PROF-2013-S3 Legal Title Trust II,

Represented By
Robert P Zahradka
John D Schlotter
Dane W Exnowski
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#1.00 Hrg re: Motion for Leave to File Cross-Complaint

Docket 16

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See # 4 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

#2.00 Cont'd status conference re: Complaint to Determine Dischargeability of Debt pursuant to Sections 523 and 727 of the United States Bankruptcy Code
fr. 9/4/18,10/9/18, 11/27/18, 01/08/19, 2/5/19, 03/05/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Continue this status conference to 6/4/19 at 11:00 a.m. so that the parties can document their settlement and obtain any approval of Court that may be necessary or appropriate. See Status Report (adv. dkt. 19). Appearances are not required on 4/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required.

The parties are directed to address (1) why no status report was filed as required by the adopted 2/5/19 tentative ruling, and (2) whether the parties have scheduled and/or attended mediation.

The tentative ruling is to continue this status conference to 4/9/19 at 11:00 a.m, with a brief status report due by 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue to 3/5/19 at 11:00 a.m, with a brief status report due by 2/26/19. Although the latest Status Report (adv. dkt. 16) does not address whether the mandatory mediation ordered by this Court has occurred, it appears that more time is needed for mediation. Caution: If the parties do not schedule and attend mediation before the next status conference, this Court may impose sanctions on the recalcitrant party(ies). Appearances are not required on 2/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19. Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be continued? Should this adversary proceeding be dismissed for lack of prosecution?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. *Cf.* adv. dkt. 7 (belated request for mediation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By
Charles J Brash

Plaintiff(s):

Kieran Graner

Represented By
Stephen B Goldberg

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster
Sharon Graner

Represented By
Stephen B Goldberg

Chapter 7

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#3.00 Cont'd status conference re: Procedures
fr. 4/9/19

Docket 43

Tentative Ruling:

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 4/30/19 at 11:00 a.m.)

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

#4.00 Cont'd status conference re: Procedures
fr. 4/9/19

Docket 332

Tentative Ruling:

Tentative Ruling for 4/30/19:

Continue to 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.
Appearances are not required on 4/30/19.

This Court is not aware of any issues that warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required. The parties should be prepared to address the following issues.

Current issues

(a) Procedures

This Court issued its Order Setting Status Conference in All Related Matters (the "Procedures Order," dkt. 332). See *a/so* dkt. 334 & 338 (proofs of service). Among other things, the Procedures Order was prompted by the following.

First, an exhibit was filed without a cover page and with the exhibit pages out of order rendering the exhibit difficult to read (see dkt. 324, ex. 1). Second, briefs have gone on for 80 pages or more, with whole sections that appear to be at best tangentially related to the subject matter and appear to

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have been copied and pasted wholesale from other papers (but with no statement to let the reader know if those sections are or are not different in some way). See dkt. 326, 330. Third, those same papers, with exhibits included, are over 2000 pages long. Fourth, some papers appear to raise frivolous arguments (see below).

The tentative ruling is as follows with respect to procedures in all of the adversary proceedings and contested matters in these related bankruptcy cases:

(i) Page limits. Set a limit of 25 pages for any brief, and 50 pages of attached or accompanying documents, absent prior authorization to exceed those limits. The documents can be excerpts, marked up to point the reader to the relevant phrase or item, provided that (x) any original markings on the documents are clearly distinguishable from any added markings and (y) upon request full copies of all exhibits are immediately made available to all other parties and this Court.

(ii) Incorporation by reference. Direct all parties, rather than repeating their arguments and exhibits, to incorporate them by reference. In addition, to the extent any material does not exactly repeat prior material, but parallels prior material in substantial part, the tentative ruling is that the party must explain what is new or different.

For example, instead of a 10-page recitation of background facts in which one sentence is different, the party would replace those 10 pages with that one sentence and a brief summary of the relevant aspects of the prior material, with a cross-reference to the docket number of the material that is incorporated by reference. Alternatively, if the approach in the immediately preceding sentence would not be practical or would be confusing in any particular situation, then the party would add a footnote both at the start of the factual summary and at the start of the new or different sentence, to alert the reader that this is the portion that is new or different. Alternatively, the party could adopt any other suitable method for highlighting new or different material. In any event, all parties are directed to use whatever method is most reader-friendly for presenting accurate, relevant material.

(iii) Bifurcating or combining any matters, and issuing judgments

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on partial findings and/or final judgments on fewer than all claims or parties. The claim objections that are set for hearing today violate at least the spirit, and probably the letter, of Rule 3007(b) (Fed. R. Bankr. P.) ("A party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding."). In any event, any future claim objections involving the same nucleus of operative facts as any pending adversary proceeding must be raised through proper pleadings or motions in those adversary proceedings, not by separate claim objections.

In addition, there is no reason to litigate all of the numerous issues raised by the parties if it appears that it would be more efficient to litigate just one or two issues first, and enter judgements on partial findings, and/or enter final judgments as to fewer than all claims or parties (based on any express determination that there is "no just reason for delay") (Rules 52 & 54(b), Fed. R. Civ. P., incorporated by Rules 7052, 7054 & 9014(c), Fed. R. Bankr. P.). For example, if a hypothetical chapter 7 debtor were accused of dozens of acts and omissions that could warrant either nondischargeability of individual claims (11 U.S.C. 523) or denial of the entire discharge (11 U.S.C. 727), there might be no just reason not to enter a judgment determining a single issue, after bifurcation so as to have a separate trial on that issue. In this situation the single issue might be whether the hypothetical debtor had concealed or failed to maintain adequate recorded information (under section 727(a)(3)), which, if proven, presumably would moot the other issues under sections 523 and 727.

The parties are directed to address whether this Court should adopt such procedures for one or more issues in these cases and the related adversary proceedings and contested matters, or conversely whether this Court should combine various matters for joint hearings or trials. See Rule 42 (Fed. R. Civ. P., incorporated by Rules 7042 & 9014(c), Fed. R. Bankr. P.).

(iv) Testimony by declaration. Direct testimony must be presented by declaration, subject to live cross-examination and redirect (see Rule 611(a); *In re Gergely*, 110 F.3d 1448, 1451-52 (9th Cir. 1997); *In re Adair*, 965 F.2d 777, 779-80 (9th Cir. 1992)).

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(v) Time limits. The parties are hereby put on notice that this Court at any time may limit their time for oral argument and presentation of their case. In addition, the parties are directed to address whether they would prefer that this Court impose such limits at this time, or at any pretrial conferences, or on the first day of trial, or during trial. See *generally*, Hon. Barry Russell, 2 *Bankr. Evid. Manual* (2018-19 Ed., Nov. 2018) 611:1, Examples 6&7).

(b) Objection by individual Debtors to Proof of Claim ("POC") No. 3 (dkt. 310)

Overrule the objection to POC No. 3, filed by Wyndham Vacation Resort, Inc ("Wyndham"), for the reasons stated in Wyndham's opposition (dkt. 326), and for the following additional reasons.

First, POC No. 3 has sufficient documentation and other information to establish its *prima facie* validity. Second, any lack of *prima facie* validity is not enough to disallow the claim under 11 U.S.C. 502. See *In re Orozco*, 2017 WL 3126797 (Case No. 2:13-bk-15745-NB, dkt. 132), and *In re Beoglyan* (Case No. 2:13-bk-22883-NB, dkt. 141).

The cases cited by Mr. MacMillan (dkt. 310, pp.2:28-3:1) are distinguishable or actually contrary to his position. See *In re Garner*, 246 B.R. 617 (9th Cir. BAP 2000) (when claim did have *prima facie* validity, opposition did not overcome that *prima facie* validity); and see *In re Stoecker*, 5 F.3d 1022, 1027-28 (7th Cir. 1993) (reversing disallowance of claim based on non-compliance with Rule 3001(f)); *In re Brunson*, 486 B.R. 759, 765-66, and 768-73 (Bankr. ND Tex. 2013) ("This court adheres to the majority view that a proof of claim may not be disallowed where the sole basis of objection is the creditor's failure to attach sufficient documentation under Bankruptcy Rule 3001") (emphasis added).

Indeed, as noted in *Brunson*, the 2011 amendments to "Bankruptcy Rule 3001(c)(2)(D), together with the Advisory Committee Note shedding light on its meaning, should end the debate." *Id.*, p.770 (emphasis added). Now it is clear that "[f]ailure to provide the required information does not itself constitute a ground for disallowance of a claim." *Id.* (quoting advisory committee note; emphasis added).

In view of the foregoing, the tentative ruling is that this objection to POC No. 3 is frivolous.

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(c) Objection by individual Debtors to POC No. 18 (dkt. 312)

Overrule the objection to Americana Vacation Club and Stardust Vacation Club's ("Americana/Stardust") POC for the reasons stated in Americana/Stardust's opposition (dkt. 320) and for the same reasons as stated above in connection with POC No. 3. Debtors' Reply (dkt. 341) does not adequately address those reasons.

In view of the foregoing, the tentative ruling is that this objection to POC No. 18 is frivolous.

(d) Motion by individual Debtors to Dismiss bankruptcy case of Attitude Marketing, Inc. ("Attitude") (the "MTD," dkt. 307)

The tentative ruling is to deny the individual Debtors' MTD for the reasons stated in the Chapter 7 Trustee's opposition (dkt. 325) to the MTD, and for the following additional reasons.

As the Trustee notes, in this circuit a voluntary Chapter 7 debtor is entitled to dismissal of the case so long as such dismissal will cause no "plain legal prejudice" to interested parties, or perhaps just "legal prejudice" (without the "plain" modifier). *In re Leach*, 130 B.R. 855, 857 (9th Cir. BAP 1991) (citing pre-Bankruptcy Code case of *In re International Airport Inn Partnership*, 517 F.2d 510, 512 (9th Cir. 1975), and addressing how its principles should be applied under the Bankruptcy Code). The tentative ruling is that dismissal very much would cause plain legal prejudice to interested parties because dismissal would preclude the Trustee and creditors from using the bankruptcy process and powers (i) to investigate past and present alleged misconduct, (ii) to prevent acts and omissions for which there are grounds to be concerned, and which can drain the value of a potentially valuable asset of this bankruptcy estate, and (iii) to identify and recover any avoidable transfers.

Investigating all of these things is made all the more important by the allegations of a long history of Debtors purportedly evading judgments, settlement obligations, etc. Whether those allegations are accurate or not is an issue on which Debtors will have every legitimate opportunity to present arguments and evidence; but the tentative ruling is that they cannot avoid the determination of those bankruptcy-focused issues by obtaining a dismissal of their bankruptcy case.

Debtor's motion and reply papers (dkt. 339, 340) do not adequately address any of the foregoing, nor do they establish any reason why this Court

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would not recognize the Trustee's authority to file the bankruptcy petition pursuant to the Written Consent Of Shareholders In Lieu Of Meeting and the Written Consent Of Sole Director In Lieu Of Meeting attached to the Trustee's Opposition as Exhibit A (dkt. 325). The arguments attempting to dispute the Trustee's business judgment in causing Attitude's bankruptcy petition to be filed, or in filling out Attitude's bankruptcy schedules, or in administering Attitude's assets, are unpersuasive and unsupported by any meaningful evidence. The individual Debtors' flat denials of the claims against Attitude, without persuasive or even colorable arguments or evidence, are insufficient.

The tentative ruling is that the individual Debtors' arguments are frivolous. In any event, the paucity of those arguments only reinforces the need for the Trustee to take over management of Attitude.

Proposed orders: The Trustee and the Claimants are directed to lodge proposed orders on each of the foregoing matters "(1)(b)," "(c)," and "(d)" via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B). This Court will prepare an order on matter "(1)(a)."

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By

James A Dumas Jr

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CONT... David MacMillan
Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#5.00 Cont'd Status Conference re: Complaint to Determine
Nondischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18,
08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19,
4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

This Court has reviewed the latest filed documents in this adversary proceeding and is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.
Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).
Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).
Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).
Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).
Dispositive motions to be heard no later than: TBD
Joint Status Report: N/A
Continued status conference: 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.
Lodge Joint Proposed Pre-Trial Order: TBD
Pretrial conference: TBD
Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

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(typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Supplemental Tentative Ruling for 4/9/19:

The original tentative ruling (below) provides two inconsistent dates for a continued status conference: 4/30/19 at 11:00 a.m., 4/7/19 at 11:00 a.m. The latter [should be "former"] is correct. No status report required.

Tentative Ruling for 4/9/19:

Deny the motion to quash (with the possible exception of one aspect), address procedural issues, and then continue this Status Conference, all as set forth below. Appearances required.

Current issues:

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(b) Motion to Quash (adv. dkt. 84)

The tentative ruling is that the motion to quash (adv. dkt. 84) by Aston Business Solutions, Inc. ("ABS") is unpersuasive, except perhaps for limitations as to time, which the parties are directed to address at the hearing.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(A) Analysis re motion to quash

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ABS asserts only vague objections:

(1) Competitors?

ABS asserts that it and Plaintiff are competitors. How so?

The motion does not even disclose ABS' business. Is it a timeshare owner? Is it a timeshare operator? Is it something else? (As noted below, this Court expects that it has gleaned the answer from other documents, but the tentative ruling is that this lack of even such basic information in the motion is fatal to this argument.)

(2) Protected information?

ABS alleges that some sort of trade secrets or other confidential, privileged, or other type of protected information is involved. What sort of information? Why would a traditional privilege log and other tools be inadequate?

ABS complains that parties in interest in this bankruptcy case have shared information. But ABS fails to point to any prohibition on sharing information.

(3) Burden?

ABS alleges that the requested discovery is unduly burdensome. How so? Is it stored in thousands of boxes of paper files that are difficult to reach and review for some reason?

(4) Vagueness and overbreadth?

ABS alleges that the discovery requests are vague and overbroad. How so? ABS fails to provide any explanation or evidence to support this allegations.

(5) Discussion

Based on a question (not an answer) in excerpts from the deposition of ABS' President and shareholder, Glenn Chaffin, ABS may be a marketing company for "timeshare exit companies." Adv. dkt. 84, Ex.1 (Depo. Tr. 1/24/19), p.95:22-23. But how does that make ABS a "competitor" of Plaintiff, with information that would constitute trade secrets, as opposed to a facilitator of (possibly) legitimate ways to exit timeshares, who sends out non-secret flyers and other publicly known marketing materials, and assists timeshare members in navigating contracts that are known to all the parties?

Such a facilitator theoretically could benefit Plaintiff, by replacing non-paying or troubled members with paying ones - unless, of course, ABS engages in acts that improperly interfere with contractual relations or otherwise assists in the wrongdoing of which Plaintiff accuses Defendants.

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Plaintiff's discovery appears to be targeted at discovering information that could lead to admissible evidence on this and other relevant issues. Accordingly, the discovery appears to be entirely proper and appropriate, with the possible exception of the movant's request to impose some limitations as to time, which the parties are directed to address at the hearing.

(B) Adversary proceeding status conference issues

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.
Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).
Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).
Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).
Continued status conference: 4/30/19 at 11:00 a.m., no status report required.
Dispositive motions to be heard no later than: TBD
Joint Status Report: N/A
Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

This Court has reviewed the latest filed documents in this adversary proceeding, including the parties' status reports (dkt. 89, 91). This Court is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "Trial Practice")
Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).

Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).

Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).

Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).

Dispositive motions to be heard no later than: TBD

Joint Status Report: 3/12/19.

Continued status conference: 3/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

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(typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

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Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

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Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#6.00 Cont'd Status Conference re: Complaint Objecting
to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18, 4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the adversary proceeding this proceeding is being jointly administered with (calendar no. 5, 4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Tentative Ruling for 1/30/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address (a) why they failed to file the required status report, (b) why the motions for joint administration/consolidation of the two closely related adversary proceedings have not been prosecuted, and (c) the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re*

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Pringle, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not formalize the fact that the pending mediation includes this adversary proceeding by issuing an order to mediate this matter together with related adversary proceeding (2:17-ap-01229-NB)? The tentative ruling is to direct counsel for the defendants to lodge a proposed order to that effect.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By

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James A Dumas Jr

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Adv#: 2:17-01485 Gonzalez v. Macmillan et al

- #7.00 Cont'd Status Conference re: Complaint for Fraudulent Transfer and Declaratory Relief
fr. 12/5/17, 02/13/18, 3/20/18, 4/17/18, 07/17/18, 08/14/18,
10/16/18, 11/27/18, 12/11/18, 1/29/19, 03/05/19, 3/26/19,
4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

This Court is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 10, 11).

(2) Deadlines: This adversary proceeding has been pending since 9/26/17.

Discovery cutoff (for *completion* of discovery): 3/25/19 (see adv. dkt. 67)

Expert(s) - deadline for reports: 4/3/19 (see adv. dkt. 72)

Expert(s) - discovery cutoff (if different from above): 4/30/19 (see adv. dkt. 72)

Dispositive motions to be heard no later than: 2/28/18 (see adv. dkt. 59)

Joint Status Report: 4/23/19

Continued status conference: [see "Pretrial conference" below]

Lodge Joint Proposed Pre-Trial Order: 5/7/19 (see adv. dkt. 72)

Deadline for certain motions in limine: 5/14/19 (see adv. dkt. 72, para.

7)

Pretrial conference: 5/21/19 at 2:00 p.m. (see adv. dkt. 72)

Deliver trial exhibits to other parties and chambers (2 copies to

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chambers), including direct testimony by declaration unless excused: 5/7/19 (see adv. dkt. 72) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 5/28/19 at 9:00 a.m. (see adv. dkt. 72)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Address procedural issues and then continue this Status Conference as set forth below. Appearances required.

Current issues

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 10, 11).

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 3/25/19 (see adv. dkt. 67)

Expert(s) - deadline for reports: 4/3/19 (see adv. dkt. 72)

Expert(s) - discovery cutoff (if different from above): 4/30/19 (see adv. dkt. 72)

Dispositive motions to be heard no later than: 2/28/18 (see adv. dkt.

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Joint Status Report: 4/23/19

Continued status conference: 4/30/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 5/7/19 (see adv. dkt. 72)

Pretrial conference: 5/21/19 at 2:00 p.m. (see adv. dkt. 72)

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 5/7/19 (see adv. dkt. 72) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 5/28/19 at 9:00 a.m. (see adv. dkt. 72)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required. The tentative ruling is to set a trial date as set forth below. The parties should be prepared to address Defendants' request that trial be conducted with live testimony on direct examination, rather than by declaration (see adv. dkt. 70, p.4).

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 10, 11).

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 3/25/19 (see adv. dkt.

67)

Expert(s) - deadline for reports: 3/22/19 (see id.)

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Expert(s) - discovery cutoff (if different from above): 3/29/19 (see *id.*)

Dispositive motions to be heard no later than: 2/28/18 (see adv. dkt.

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Joint Status Report: 4/23/19

Continued status conference: 4/30/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 5/7/19

Pretrial conference: 5/14/19 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 5/21/19 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 5/28/19 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Continue to 3/26/19 at 11:00 a.m., with a brief status report due 3/19/19, based on the parties' status report (adv. dkt. 69), as well as the amended discovery schedule (adv. dkt. 65, 67). At the continued hearing this Court anticipates setting a trial date, and addressing procedures such as whether direct testimony will be by declaration or live (as Defendants request). Appearances are not required on 3/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 12/11/18:

Continue to 1/29/19 at 11:00 a.m., with a brief status report due 1/15/19.
Appearances are not required on 12/11/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Continue to 12/11/18 at 11:00 a.m., per the latest status report (dkt. 56).
Appearances are not required on 11/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required. There is no tentative ruling but the parties should be prepared to address the following issues.

(1) Background

Plaintiff filed a motion (adv. dkt. 14) for summary judgment on his first claim for relief (constructively fraudulent transfer) and the second claim for relief (declaratory relief that the purported trust is ineffective to prevent creditors from reaching the assets) in his complaint (adv. dkt. 1). This Court issued an order (adv. dkt. 31) denying summary judgment on the first claim but granting it on the second, for the reasons stated therein - principally the reasons in the Revised Tentative Ruling for 3/20/18 (reproduced below).

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Defendants appealed. The District Court dismissed the appeal as interlocutory. See adv. dkt. 52, 53. The parties' joint status report states (adv. dkt. 54, p.4, sec.G) that they have executed but not filed a stipulation "that the dismissed appeal can be re-filed as an interlocutory appeal but on the condition that the trial proceed on the remaining fraudulent transfer claim for relief."

(2) Current issues

It is not clear what the parties intend, or what procedural steps this Court should take. Whatever is in the parties' unfiled stipulation presumably will not bind the District Court (or any other court hearing the appeal) in deciding whether to grant leave to appeal this Court's interlocutory ruling, so what do the parties hope to accomplish with their stipulation? Moreover, the parties' stated intention to proceed simultaneously in both this Bankruptcy Court and the District Court usually is not possible because an appeal generally deprives this court of jurisdiction. Cf. Rule 54(b) (Fed. R. Civ. P., incorporated by Rule 7054, Fed. R. Bankr. P.), and compare Rule 8008 (Fed. R. Bankr. P.). To the extent, if any, that this Court has discretion to grant any relief that would make such dual-tracking possible, is that an appropriate use of judicial resources? On a separate issue, if the plaintiff intends to proceed with the first claim for relief, does the plaintiff plan to amend the complaint to cure the deficiencies in that claim (constructively fraudulent transfer) noted in the tentative ruling for 3/20/18?

The tentative ruling is to continue this status conference to 11/6/18 at 11:00 a.m. with a deadline of 10/23/18 for the parties to file and serve whatever papers they deem appropriate to address the foregoing issues and any other relevant issues at this stage of these proceedings.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

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Continue to 10/16/18 at 11:00 a.m., with a brief status report due 10/2/18.
See status report (adv. dkt. 51). Appearances are not required on 8/14/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

Continue to 8/14/18 at 11:00 a.m. as requested by the parties in their joint status report (see adv. dkt. 50), with a brief status report due 7/31/18.
Appearances are not required on 7/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). There is no tentative ruling, but the parties should apprise this court about the status of any appeals or other matters (see dkt. 31, order granting in part plaintiff's motion for summary judgment, and dkt. 35, notice of appeal). The tentative ruling is to set a continued status conference for 7/17/18 at 11:00 a.m., with a brief status report due 7/6/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 3/20/18:
Appearances required.**

(1) Motion for summary judgment (adv. dkt. 14-18, the "MSJ"); opposition papers (adv. dkt. 22-25); and reply papers (adv. dkt. 26-27). The tentative ruling is to deny in part and grant in part the MSJ, as set forth below.

(a) Legal standards. The legal standards governing motions for summary judgment are well known, do not appear to be disputed by the parties, and need not be repeated in this tentative ruling.

(b) First claim for relief (fraudulent transfer). Although the complaint (adv. dkt.1) asserts fraudulent transfer claims under both California law and the Bankruptcy Code, the MSJ limits this to 11 U.S.C. 548. The MSJ also asserts only constructive, not actual, fraud. See adv. dkt. 14, pp.2:21-3:1.

The complaint alleges less than reasonably equivalent value (11 U.S.C. 548(a)(1)(B)(i)) - namely, transfers by the debtors/defendants for no value from the debtors and/or their revocable trusts (the assets of which apparently could be reached by creditors) to irrevocable trusts. But to establish the elements of a constructively fraudulent transfer the plaintiff must also establish one of three types of insolvency (commonly referred to as "balance sheet," "inadequate capital," or "cash flow" insolvency) or else a transfer to an insider under an "employment contract." See 11 U.S.C. 548(a)(1)(B)(ii)(I)-(IV). There is no allegation about any employment contract, so the plaintiff must establish some type of insolvency.

The MSJ refers to balance sheet insolvency (11 U.S.C. 101(32A)). But the complaint never alleges that type of insolvency, so the plaintiff cannot be granted partial summary judgment as to that element (11 U.S.C. 548(a)(1)(B)(ii)(I)).

The complaint alleges inadequate capital and inadequate cash flow (in language that roughly parallels 11 U.S.C. 548(a)(1)(B)(ii)(II)&(III)). But the MSJ extrapolates that those types of insolvency could be presumed based on the bankruptcy schedules many months after the transfer, and from the sheer

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number of lawsuits and eventual judgments against the defendants and other circumstantial evidence. Those things might (or might not) be persuasive at trial, but they are insufficient to establish a lack of genuine issue of fact.

(c) Second claim for relief (declaratory relief related to nature of the trusts). The complaint (adv. dkt. 1, para. 23) seeks a declaratory judgment (i) that the debtors/defendants are "beneficiaries" of the trusts within the meaning of California Probate Code 15304, (ii) that the benefits the debtors/defendants receive from the trusts are "property of the estate" under 11 U.S.C. 541, and (iii) that the trusts qualify as "self-settled trusts" under California law, which the MSJ uses as shorthand for a trust the assets of which are reachable by creditors.

Various provisions of the Bankruptcy Code define what property is part of the bankruptcy estate:

The bankruptcy estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). It does not include, however, "any power that the debtor may exercise solely for the benefit of another," 11 U.S.C. § 541(b)(1), nor does it include "[p]roperty in which the debtor holds ... only legal title and not an equitable interest." 11 U.S.C. § 541(d). Similarly, the estate does not include property containing "[a] restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law." 11 U.S.C. § 541(c)(2). [*In re Cutter*, 398 B.R. 6, 18-19 (9th Cir. BAP 2008).]

Under California law:

(a) If the settlor is a beneficiary of a trust created by the settlor and the settlor's interest is subject to a provision restraining the voluntary or involuntary transfer of the settlor's interest, the restraint is invalid against transferees or creditors of the settlor. The invalidity of the restraint on transfer does not affect the validity of the trust.

(b) If the settlor is the beneficiary of a trust created by the settlor and the trust instrument provides that the trustee shall pay income or principal or both for the education or support of the beneficiary or gives the trustee discretion to determine the amount of income or principal or both to be paid to or for the

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benefit of the settlor, a transferee or creditor of the settlor may reach the maximum amount that the trustee could pay to or for the benefit of the settlor under the trust instrument, not exceeding the amount of the settlor's proportionate contribution to the trust. [California Probate Code 15304]

The California Supreme Court has held that to the extent that the settlor of a trust is also a beneficiary, creditors can reach the property held by the trust:

It is against public policy to permit a man to tie up his property in such a way that he can enjoy it but prevent his creditors from reaching it, and where the settlor makes himself a beneficiary of a trust any restraints in the instrument on the involuntary alienation of his interest are invalid and ineffective. Since [the settlor] was the sole beneficiary, all the property in the trust is subject to the claims of his creditors. [*Nelson v. Cal. Trust Co.*, 33 Cal.2d 501, 501-02 (1949) (emphasis added)]

These principles have been more recently reaffirmed in a decision of the Ninth Circuit Court of Appeals:

[U]nder California law, a settlor of a spendthrift trust cannot also act as beneficiary of that trust (*i.e.*, California law prohibits "self-settled" trusts). See Cal. Prob.Code § 15304(a) (West 1987). California law voids self-settled trusts to prevent individuals from placing their property beyond the reach of their creditors while at the same time still reaping the bounties of such property. See *Nelson v. California Trust Co.*, 33 Cal.2d 501, 202 P.2d 1021, 1021 (Cal. 1949). [*In re Moses*, 167 F.3d 470, 473 (9th Cir. 1999)]

In addition, the MSJ cites authority that if beneficiaries exercise "excessive" control over a trust then under California law they cannot "shield that trust with an anti-alienation provision lacking true substance." *In re Moses*, 167 F.3d 470, 473 (9th Cir. 1999) (citation omitted) (emphasis added). See also *In re Cutter*, 398 B.R. 6, 22 (9th Cir. BAP 2008). MSJ (adv. dkt. 14, p.10:1-14).

The debtors argue that their situation is different from that in *Cutter* because "the Debtor in *Cutter* could potentially use all the Trust's principal and income to maintain his standard of living, without limitation" whereas "[t] here is no such provision" in the debtors' trusts. Dkt. 22, p.3:22-26 (italics)

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added to case name). That distinction of *Cutter* (and the other authorities cited above) is unpersuasive.

The MSJ points to the following facts in support of its argument that (i) the debtors are also beneficiaries and (ii) the anti-alienation provisions of the trust lack "true substance." The debtor/defendants do not raise any genuine contrary issues of fact.

(i) The debtors deducted mortgage interest and real estate taxes on their 2015 tax returns. See dkt. 18, p.4:5-9 (and evidence cited therein).

(ii) During the "initial period" of the trusts (the earlier of the grantors' deaths or 16 years) the debtors can continue to live in the property rent-free. See Dkt. 18, p.4:10-15 (and evidence cited therein).

(iii) During that same period, any net income or excess cash is distributed to the debtors. See Dkt. 18, p.4:16-21 (and evidence cited therein).

(iv) The debtors can manage the property as "absolute owners." See Dkt. 18, p.4:22-28 (and evidence cited therein).

(v) The debtors can loan money to themselves and/or use the property to secure loans to themselves. See Dkt. 18, p.5:2-7 (and evidence cited therein).

(vi) During their lifetime, the debtors can make discretionary distributions to their children, and upon their deaths the trust assets are to be distributed to their children. See Dkt. 18, p.5:8-12 (and evidence cited therein).

Based on the foregoing, it appears that the debtors are indeed beneficiaries of the trusts to a large extent, and moreover the anti-alienation provisions of the trust lack "true substance" as that term has been used in the cited authorities. Accordingly, the tentative ruling is to grant the MSJ on the second claim for relief.

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. The applicable deadlines are reflected in this court's orders (adv. dkt. 7, 20). The parties should be prepared to address whether there are any non-mooted matters left to resolve in this adversary proceeding, if this Court is not persuaded to depart from the foregoing tentative ruling on the MSJ.

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/20/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 2/13/18:

Continue this status conference to be concurrent with the hearing on the pending summary judgment motion, which is presently scheduled for 3/20/18 at 11:00 a.m. Appearances are not required on 2/13/18.

This court has reviewed the parties' late-filed joint status report (adv. dkt. 10, 11) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (at the hearing on 12/5/17). See *also* adv. dkt. 10, 11.

(2) Deadlines: This adversary proceeding has been pending since 9/26/17. The applicable deadlines are reflected in this court's orders (adv. dkt. 7, 20).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/5/17:

Appearances required. The court has reviewed the parties' joint status report (dkt. 5) and the other filed documents and records in this adversary proceeding.

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(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

This court recognizes that, at least at this stage, the attorney who filed the answer (dkt. 4) for both trustees of the trust has also executed the Status Report (dkt. 5) on behalf of one of the defendant trustees (the debtor/defendant) asserting that neither of them can consent to this Bankruptcy Court entering a final judgment because third party beneficiaries of the trust allegedly have a right to have their rights litigated "outside of this venue." Counsel for the answering defendants should be prepared (a) to explain whether this is a *Stern* objection or something else and (b) whether both answering defendants or only one of them takes this position, and if the former, why he did not execute the status report on behalf of both of them.

Counsel for the plaintiff should be prepared to address whether the plaintiff contends that there are no additional parties who need to be joined, and why.

(2) Mediation. The plaintiff suggests in the Status Report (adv. dkt. 5) that mediation, if any, should not be ordered before dispositive motion(s) are heard, which the plaintiff anticipates will be by 3/1/18. The tentative ruling is to revisit the issue of mediation after that date.

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(3) Deadlines: This adversary proceeding has been pending since 9/26/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 3/1/18

Expert(s) - deadline for reports: 2/20/18

Expert(s) - discovery cutoff (if different from above): 3/1/18

Dispositive motions to be heard no later than: 3/13/18

Joint Status Report: 1/30/18

Continued status conference: 2/13/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 4/10/18

Pretrial conference: 4/17/18 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 4/19/18 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 4/23/18 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By

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Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

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Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#8.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Appearances required.

From the prior status report (adv. dkt. 50) it appears that the previously ordered deadlines (adv. dkt. 48) may need to be revised. The parties are directed to address that issue.

(1) Motion for summary judgment ("MSJ," adv.dkt. 43). Contrary to the posted Procedures of Judge Bason, Plaintiff self-calendared the MSJ. In addition, the MSJ is set for 10:00 a.m. (on 6/4/19), which is this Court's relief from stay calendar. The tentative ruling is to reschedule the hearing to 2:00 p.m. on 6/4/19.

(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dct. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

(3) Deadlines: This adversary proceeding has been pending since 11/21/17.
Discovery cutoff (for completion of discovery): 3/25/19 (adv. dkt. 48)
Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)
Expert(s) - discovery cutoff (if different from above):
Dispositive motions to be heard no later than: 2/11/19 [needs revision]
Joint Status Report: 5/7/19
Continued status conference: 6/4/19 at 2:00 p.m.
Lodge Joint Proposed Pre-Trial Order: TBD
Pretrial conference: TBD

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Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Address procedural issues and then continue this status conference as set forth below. Appearances required.

Current issues

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.).

(b) Continued hearing

The tentative ruling is to continue this status conference to 4/30/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required.

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The tentative ruling is to continue this status conference to 5/7/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

The tentative ruling is (1) to continue this status conference to 3/26/19 at 11:00 a.m., with no written status report required prior to that continued date, and (2) to extend the discovery cut off to 3/15/19 per the parties' Joint Status Report (adv. dkt. 45). Plaintiff is directed to lodge a proposed scheduling order containing this new deadline, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form. Appearances are not required on 2/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's schedulings order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the

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signature of Defendants' counsel approving the order as to form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority

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have been determined and/or waived or forfeited (adv. docket number(s) 23).

(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and

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are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

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Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

Reasons: At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/23/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a

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copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By

Robert S Altagen

Cynthia B. Martin

Represented By

Robert S Altagen

Aston Business Solutions, Inc.

Represented By

William H Brownstein

Eric A. Martin

Represented By

William H Brownstein

Glenn J. Chaffin

Represented By

William H Brownstein

Andrae Perez

Pro Se

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Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#9.00 Cont'd hrg re: Motion for Relief from Stay [RP]
(2720 Homestead Rd, Suites 210 & 220, Park City UT 84098)
fr. 12/12/17, 02/13/18, 5/22/18, 08/07/18, 10/2/18,
10/26/18, 12/6/18, 2/5/19, 03/05/19; 04/02/19

WELLS FARGO BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 143

*** VACATED *** REASON: Withdrawn [dkt. 435]

Tentative Ruling:

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Wells Fargo Bank, National

Represented By
Jennifer Witherell Crastz
Jessica Mickelsen Simon

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#10.00 Cont'd Status Conference
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19;04/02/19

Docket 323

Tentative Ruling:

Tentative Ruling for 4/30/19:
Appearances are not required.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol.").

(b) Evidentiary Objections (Lay-Invol dkt. 214) to the Declaration of Philip Layfield (Lay-Invol dkt. 207, last two pages)

Sustain the objections except as to Mr. Layfield's alleged intent to appear at certain scheduled meetings of creditors (11 U.S.C. 341(a)). On that issue, his testimony is at least potentially relevant, because his good or bad faith is one of the facts and circumstances that this Court may consider in determining whether to dismiss this case.

Alternatively, the tentative ruling on the merits (see below) would be unchanged even if this Court were to overrule all of the evidentiary objections to Mr. Layfield's declaration.

(b) Motion to Dismiss (Lay-Invol dkt. 207)

Deny for the reasons stated in the Chapter 7 Trustee's Opposition (dkt. 213). See also Joinders (dkt. 215, 216).

In addition, regarding Mr. Layfield's allegations about some sort of perceived conflict involving the Chapter 7 Trustee, his arguments are difficult to follow and both procedurally and substantively deficient. This Court has already rejected Mr. Layfield's challenges to the appointment of the Trustee. See dkt. 149, 183. To the extent that Mr. Layfield raises new allegations, there is no explanation why they were not raised before; there is no citation to the standards for reconsideration (e.g., under Rule 9024, Fed.R.Bankr.P.) nor

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Chapter 11

any attempt to meet those standards; and his vague allegations are conclusory statements of opinion and legal conclusions without supporting facts. See dkt. 207, p.4:11-18 & pp. 11:21-12:5 (referencing *In re Adelman*, Case No. 2:15-bk-15952-RK). In addition, this Court has reviewed the docket in the *Adelman* bankruptcy case, including the bankruptcy schedules (*id.* dkt.84), and is unable to discern any disqualifying facts. See 11 U.S.C. 327(c)(attorney's representation of creditor does not by itself disqualify such person from representing trustee).

Proposed Order: Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(3) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 6/4/19 at 11:00 a.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 4/2/19:

Appearances required

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.) LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-

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CONT... **Layfield & Barrett, APC**
CA dkt. 154).)

Chapter 11

(2) Matters on Calendar Today

(a) Motion for Sale of Property (dkt. 419)

The tentative ruling is to grant the Motion to Sell Units 210 and 220. If the buyer submits a suitable 363(m) declaration, the Court will approve the buyer as a good-faith purchaser.

Proposed Order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Wells Fargo Relief from Stay Motion (dkt. 143)

Based on the above, the tentative ruling is to continue the Relief from Stay Motion to the next status conference date, see below, until the sale is finalized.

(3) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 4/30/19 at 11:00 a.m. to be concurrent with Mr. Layfield's motion to dismiss that case (Lay-Invol. dkt. 207). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 3/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case

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CONT... **Layfield & Barrett, APC**

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No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.) LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(2) Matters on Calendar Today

(a) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address whether there has been any new information regarding the sale of Units 210 & 220. If there is no progress with a sale, this Court's tentative ruling would be to grant relief from stay as to Units 210 & 220 due to the diminishing equity cushion (dkt. 143). As Unit 200 has been successfully sold, dkt. 144 is moot.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/26//19 at 2:00 p.m. to be concurrent with status conferences in the Lay-Invol case and in an adversary proceeding in the L&B case (Adv. No. 19-1315). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 2/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.) LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

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(b) Lay-Invol 341(a) Meeting

The parties should be prepared to address appropriate remedies for Mr. Layfield's failure to appear at the meeting of creditors (11 U.S.C. 341(a)) scheduled for 1/22/19.

(c) Christine Layfield Delaware bankruptcy case

The parties should be prepared to address any effects of the chapter 7 bankruptcy case filed by Mr. Layfield's spouse, as reported by the L&B Chapter 11 Trustee (L&B dkt. 401, p.7). To what extent does the trustee of that bankruptcy estate assert interests in these related cases? Are there discussions regarding any stipulations for relief from the automatic stay, coordination regarding venue of any proceedings, and/or coordinating other matters as between the estates?

(2) Matters on Calendar Today

(a) Motion to Sell 2720 Homestead Rd, Unit 200, Park City Utah (L&B dkt. 391)

The parties should be prepared to address the issues raised by Wells Fargo (L&B dkt. 396) and Toll Creek Owners Association, Inc. (L&B dkt. 397), as well as Movant's reply (L&B dkt. 402). In addition, if the objections are resolved or overruled and the sale goes forward (subject to overbids), the tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. See generally *In re M Capital Corp.*,

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290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

(b) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address the issues raised in Wells Fargo's status report (L&B dkt. 399) regarding all of the condominium units. The tentative ruling is to continue the Relief from Stay Motions to 3/5/19 at 2:00 p.m., with a deadline of 2/12/19 for the Trustee to provide Wells Fargo an updated written report describing the listing price(s), showings, and offers for Units 210 and 220. The tentative ruling is also to extend the previously entered orders for filing under seal (L&B dkt. 387, 388) to any brief the parties wish to file in connection with the continued hearing.

(c) Wellgen Standard v. Maximum Legal (17-1503) Status Conference

The parties should be prepared to address the status of the purported settlement of this adversary proceeding.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 12/18/18:

Appearances required

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of the three related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."), (c) *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-

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CONT... Layfield & Barrett, APC
bk-18433-NB ("Max-CA").

Chapter 11

(2) Matters on Calendar Today

(a) Chapter 7 Trustee's Motion for Order (1) Approving Stipulation Relating to Disbursement of Funds, and (2) Closing Case (Max-CA, dkt. 137)

The tentative ruling is to grant this motion, but the parties should be prepared to address the effect on the pending adversary proceeding entitled *Wellgen Standard LLC v. Maximum Legal (California), LLP et al.* (L&B Case, No. 2:17-bk-19548-NB; Adv. No. 2:17-ap-01503-NB) (the "Wellgen Adv.P.").

On a related matter, as part of case management in the L&B case, the tentative ruling is to continue the Status Conference currently set in the Wellgen Adv.P. from 1/15/19 at 11:00 a.m. to the same date and time as the Status Conferences in the related bankruptcy cases, set forth below.

(b) Final Fee Application of SulmeyerKupetz (Max-CA, dkt. 131)

Grant: \$12,693.52 in fees and \$52.48 expenses.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 2/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), with a *brief* status report by the trustees due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Rulings for 12/6/18 and prior:

[OMITTED FOR BREVITY, AND BECAUSE THEY HAVE BEEN LARGERLY MEMORIALIZED. See, e.g., L&B dkt. 367, 377]

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

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Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:18-01233 Pachulski v. Young et al

#11.00 Cont'd status conference re: Complaint for Avoidance
and Recovery of Preferential Transfers
fr. 11/27/18

Docket 10

***** VACATED *** REASON: Order approving stipulation cont'd to 6/4/19
at 11:00 a.m. [dkt. 25]**

Tentative Ruling:

Party Information

Debtor(s):

Layfield & Barrett, APC Pro Se

Defendant(s):

Jeffery Young Pro Se

Conal Doyle Represented By
M. Jonathan Hayes

Wilshire Law Firm, PLC Represented By
M. Jonathan Hayes

Babak Bobby Saadian Represented By
M. Jonathan Hayes

Neifert Khorshid Represented By
M. Jonathan Hayes

Plaintiff(s):

Richard M Pachulski Represented By
James KT Hunter

Trustee(s):

Richard Pachulski (TR) Represented By
Malhar S Pagay

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James KT Hunter

Chapter 11

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11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#12.00 Hrg re: Motion to Dismiss Pursuant to U.S.C § 305

Docket 207

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 10 (4/30/19 at 11:00 a.m.).

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#13.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19; 04/02/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 10 (4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 6 (4/2/19 at 2:00 p.m.).

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/18/18:

Please see tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (12/18/18 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

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CONT... Philip James Layfield

Chapter 7

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the Layfield & Barrett matter (calendar no. 1, 9/18/18 at 2:00 p.m.).

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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2:19-12720 Andrea Pompelli Steyn

Chapter 11

#1.00 Hrg re: U.S. trustee motion to dismiss or convert case

Docket 22

***** VACATED *** REASON: Per Stipulation, dkt. 32, and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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2:19-12720 Andrea Pompelli Steyn

Chapter 11

#2.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

(a) Budget motion

Debtor's status report (dkt. 31, item B.2.) states that a budget motion is not required by the presiding judge. To the contrary, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state:

§ 363(b): Budget motions. Required. ... **NOTE:** Judge Bason *requires* the use of local forms F 2081-2.2.MOTION.BUDGET and F 2081-2.2.ORDER.BUDGET.

Nevertheless, the tentative ruling is to excuse the lack of a budget motion due to the circumstances of this case (Debtor proposes a 363 sale of her sole property that allegedly has substantial equity; she has almost no income; and she has almost no unsecured creditors).

(b) Transfers to insiders

Debtor's first Monthly Operating Report ("MOR," dkt. 30, p.8, question 2) states that transfers have been made to insiders without appropriate authorization. What are the details?

(c) 363 sale

Debtor's counsel is referred to the posted Procedures of Judge Bason regarding sales under 11 U.S.C. 363(b)&(f).

(2) Deadlines/dates. This case was filed on 3/13/19 .

(a) Bar date: 6/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/4/19 at 1:00 p.m. No written status report required.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#3.00 Hrg re: First interim application for compensation and reimbursement of Expenses of Michael Jay Berger

Docket 75

Tentative Ruling:

Please see tentative ruling in status conference. (cal. no. 4, 4/30/19 at 1:00 p.m.).

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19

Docket 7

Tentative Ruling:

Tentative Ruling for 4/30/19:

Appearances are not required on 4/30/19.

(1) Current issues

(a) Fee Application - Berger (dkt. 75)

Grant in the amount of \$24,777.50 in fees and \$680.61 in expenses, for a total of \$25,458.11, and authorize and direct Debtors to pay the balance owed after application of the retainer balance.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

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This status conference has been set pursuant to this Court's order (dkt. 6) and notice thereof (dkt. 14), pursuant to which status conferences are held concurrent with any other calendared proceeding. Appearances are not required on 4/9/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Grant, with an extension of the deadline for Mazakoda Inc to file a complaint objecting to dischargeability to 4/30/19. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). At the hearing on 3/26/19, counsel for Mazakoda appeared and informed this Court that it opposed the tentative ruling denying the motion for lack of prosecution, and that it had just received the recording/transcript on 3/22/19. Although Debtors' counsel was not notified of Mazakoda's intent to contest the tentative ruling (as required by the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov), this Court was persuaded to continue this matter, as permissible under those same procedures. Mazakoda has now supplemented the Motion (dkt. 74), and based on that supplement the tentative ruling is that it is appropriate to extend the deadline.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... **Edmond Melamed and Rozita Melamed**

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Deny for lack of prosecution. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). It has now had time to do so, and has not supplemented its motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Continue as set forth below. Appearances are not required on 2/26/19.

(1) Current issues

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CONT...

Edmond Melamed and Rozita Melamed

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Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability

(dkt. 53). Until the transcript is received for the meeting of creditors (11 U.S.C. 341(a)), it is difficult to assess the issues raised in the opposition (dkt. 63) and reply (dkt. 64). The tentative ruling is to continue this hearing to the same time as the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required.

(1) Current issues

(a) Mazakoda, Inc's Objections to Debtor's Claimed Exemptions (dkt. 45)

The tentative ruling is to set the Objection to Exemptions for hearing on 2/26/19 at 1:00 p.m. (to be concurrent with the motion to extend the deadline to object to Debtors' discharge) with the usual deadlines for any opposition and reply.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No status

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CONT... **Edmond Melamed and Rozita Melamed**
report required.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 2/1/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:18-12716 Peta Elizabeth Gorshel

Chapter 11

#5.00 Hrg re: Application for payment of interim fees and/or expenses
Jennifer Min Liu, Accountant

Docket 102

Tentative Ruling:

Please see tentative ruling in status conference (cal. no. 7, 4/30/19 at 1:00 p.m.).

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
Michael Jay Berger

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2:18-12716 Peta Elizabeth Gorshel

Chapter 11

#6.00 Hrg re: Second interim application for compensation and reimbursement of expenses of Michael Jay Berger

Docket 100

Tentative Ruling:

Please see tentative ruling in status conference (cal. no. 7, 4/30/19 at 1:00 p.m.).

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
Michael Jay Berger

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2:18-12716 Peta Elizabeth Gorshel

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 4/10/18, 5/1/18, 5/22/18, 07/17/18, 9/18/18,
12/11/18

Docket 9

Tentative Ruling:

Tentative Ruling for 4/30/19:

Appearances are not required on 4/30/19.

(1) Current issues

(a) Second Interim Fee Application - Berger (dkt. 100)

Grant in the amount of \$7,407.50 in fees and \$200.05 in expenses, for a total of \$7,607.55.

(b) Fee Application - Liu (dkt. 102)

Grant in the amount of \$3,000 in fees, less the \$2,000 retainer, for net fees owed of \$1,937.50.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement: 4/1/19 deadline to file (NOT SERVE - except on the U.S. Trustee)

(c) Continued status conference: 5/7/19 at 1:00 p.m., to be concurrent with the United States Trustee's motion to dismiss or convert (dkt. 96). No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Continue to the date and time set forth below. Appearances are not required on 12/11/18.

(1) Current issues

(a) The Court has no issues to raise *sua sponte*.

(2) Dates/Deadlines.

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement*: file by 4/1/19 (see dkt. 86) using the forms required by Judge Bason.

(c) Continued status conference: 4/30/19 at 1:00 p.m. *Brief* status report due 4/23/19.

*Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Continue to the date and time set forth below. Appearances are not required on 9/18/18.

(1) Current issues.

(a) Motion for relief from automatic stay (dkt. 41). Deny without prejudice, for the reasons stated in the debtor's response (dkt. 48) and based

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on the representations in the debtor's status report (dkt. 60). *Proposed order*: The debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Dates/Deadlines.

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement*: file by 12/4/18 (see dkt. 55, p.4:25) using the forms required by Judge Bason.

(c) Continued status conference: 12/11/18 at 1:00 p.m. *Brief* status report due 12/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

Continue to the date and time set forth below. Appearances are not required on 7/17/18.

(1) Current issues. This Court has reviewed debtor's status report (dkt. 55) and other relevant pleadings. This Court does not have any issues to raise *sua sponte*.

(2) Dates/Deadlines.

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement*: TBD. This Court is aware that debtor has requested a somewhat distant deadline (dkt. 55, p. 4). This Court may or may not be persuaded to grant that deadline at the continued status conference.

(c) Continued status conference: 9/18/18 at 1:00 p.m. *Brief* status report due 9/4/18.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/22/18:

Appearances are not required on 5/22/18.

(1) Current issues.

(a) This court does not have any issues to raise *sua sponte*.

(2) Deadlines/dates. This case was filed on 3/13/18.

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32).

(b) Plan/Disclosure Statement*: This court will discuss setting a deadline for the filing of a draft plan/disclosure statement at the next status conference.

(c) Continued status conference: 7/17/18 at 1:00 p.m. *Brief* status report due 7/3/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/1/18:

Appearances required by counsel for the debtor but telephonic appearances

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are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget Motion (dkt. 21). This Court has reviewed Debtor's Supplemental Declaration in Support of the Budget Motion (dkt. 34). Although that declaration addresses many of the concerns raised by this Court and by Strategic Acquisitions, Inc. (dkt. 23), the debtor has failed to provide historical monthly profit and loss statements from the period from 1/1/18 through 3/31/18 as required by this Court's order (dkt. 27, para. 5.a.). The parties should be prepared to address what remedy this Court should impose.

(2) Deadlines/dates. This case was filed on 3/13/18.

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32).

(b) Plan/Disclosure Statement*: In view of the debtor's declaration about her current and future projected income, the tentative ruling is to vacate the prior deadline to file these documents, and set a new deadline at a future status conference, with the caveat that if the debtor fails to show sufficient diligence in obtaining employment and/or if the estate suffers any substantial losses then this Court might have to dismiss or convert this case.

(c) Continued status conference: 6/12/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

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Appearances required by counsel for the debtor and by the debtor herself.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 19), the response (dkt. 23) filed by creditor Strategic Acquisitions, Inc. ("Strategic"), and the other filed documents and records in this case.

(a) Prior failed case. The debtor's husband's prior case (no. 17-bk-19071-NB) was a chapter 13 case that was dismissed on 10/13/17 with a 180-day bar to re-filing for failure to make plan payments or appear at the meeting of creditors (11 U.S.C. 341(a)).

(b) Budget Motion (dkt. 21). First, as Strategic points out, the debtor's bankruptcy Schedule I, line 8a, lists \$6,220/mo. of net income from "rental property and from operating a business, profession, or farm" but fails to follow the instructions to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total net monthly income." In addition, as Strategic points out, the debtor may be failing to account for the payment of real property taxes and perhaps also income taxes, and therefore it is not at all clear how the debtor will be able to fund any plan of reorganization.

The tentative ruling is to set a **deadline of 4/17/18** for the debtor to file declaration(s) (i) attaching the statement(s) required by the line 8a instructions, (ii) providing complete explanations of any other sources of income (e.g., how long does the debtor anticipate continuing to receive disability payments? does the debtor anticipate returning to employment, and if so, when?), (iii) explaining whether the debtor is accounting for real estate taxes and income taxes, (iv) explaining how the debtor anticipates generating sufficient income to fund a plan of reorganization, and (v) attaching historical monthly accounts for the period of one year prepetition through 3/31/18.

Second, bankruptcy Schedule J (attached to the budget motion), lines 17c and 17d, list payments to Strategic of \$1,750/mo. and to Ropers Majeski of \$500/mo. The tentative ruling is to treat those payments as adequate protection payments on account of claims that appear to be secured claims, conditioned on return of such payments in the event that such security interests or claims are avoided or otherwise disallowed.

Third, notice of the motion and the deadline for objections is inadequate. The proof of service fails to attach a service list of creditors, and the debtor checked the box directing creditors to file any oppositions within 14

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days' from the date of the proof of service (3/27/18), which would be the date of this hearing. Nevertheless, despite the lack of adequate service or notice, the tentative ruling is that on the present record it appears that it would be more prejudicial to creditors to prevent the debtors from making their proposed expenditures than to permit those expenditures, so the tentative ruling is to grant the budget motion on an interim basis, subject to any objections at a continued hearing simultaneous with the continued status conference date set forth below. This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006, Fed. R. Bankr. P.), but that date is conditioned upon the debtor serving the motion on the entire creditor matrix **the day after the current hearing date.**

(2) Deadlines/dates. This case was filed on 3/13/18.

(a) Bar date: 6/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: File by 6/29/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 19, p. 5), but this Court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

(c) Continued status conference: 5/1/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

Peta Elizabeth Gorshel

Represented By
Michael Jay Berger

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 3/26/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard on
05/07/19 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19

Docket 5

Tentative Ruling:

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

(1) Current issues

This Court has reviewed the debtor's latest filed documents and is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/7/19 at 2:00 p.m., to be concurrent with the motion of the United States Trustee to convert or dismiss this case (dkt. 76, 90) and Debtor's 363 sale motion (dkt. 80). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required for the status conference, but not for the abandonment motion. Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.",

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"Instructions/Procedures").

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(1) Current issues

(a) Dismissal or conversion

Debtor's fourth status report alleges (dkt. 62, p.2:10) that a "363 motion, supported with a stalking horse bid, will be submitted to the court" at some unspecified future date. This Court and parties in interest have heard that hope before, but it appears highly unlikely that Debtor will receive a bid that will exceeding the losses that are accruing meanwhile.

Debtor's situation appears to be getting steadily worse, both on a cash basis and in terms of accrued liabilities for postpetition real property rent, equipment leasing, etc. See MOR for Jan. 2019 (dkt. 57) (small positive cash flow, but \$48,522.19 in postpetition payables as against \$6,281.31 receivables) *and* MOR for Feb. 2019 (dkt. 63) lines 22-25 (net cash flow of (\$1765.14) and increase in payables to \$96,380.19 - almost double the prior month - as against \$6,281.31 receivables - unchanged).

The tentative ruling is to dismiss this case and let Debtor and its secured creditors/equipment lessors make whatever arrangements they see fit for disposing of the collateral/leased equipment. (Office of the United States Trustee to lodge proposed order.)

(b) Motion to Compel Abandonment of Property (dkt. 59)

Grant. (Movant Shmashssma, LLC to lodge proposed order.)

Proposed orders: The above-referenced parties are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:
Appearances required.

(1) Current issues.

Debtor's status report (dkt. 55) reports some alleged progress in exploring either sale(s) of assets or sale of the business or both. What is the timeline? What assurances do creditors have that debtor's uncertainty on these issues (two months into this case) will not deplete rather than enhance any potential recoveries?

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., with a *brief* status report due 3/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:
Appearances required. Continue as set forth below.

(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

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(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to

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CONT...

Jackies Cookie Connection LLC

Chapter 11

dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/4/18, 10/9/18, 11/6/18, 12/11/18, 01/15/19,
2/26/19, 3/26/19

Docket 14

Tentative Ruling:

Tentative Ruling for 4/30/19:

Debtor's latest MOR (dkt. 75) shows a (very minor) positive cash flow, and projects increases in future. The tentative ruling is to continue this status conference as set forth below. Appearances are not required on 4/30/19.

(1) Current issues

n/a

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (not timely served, see dkt. 24, 35 & 41, but the tentative ruling is not to set a new bar date because any party in interest who asserts prejudice can seek relief).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/18/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required.

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(1) Current issues

(a) Amended plan (dkt. 72) and disclosure statement (dkt. 73)

(i) Exhibits generally

The exhibits should not all be attached to both documents. Exhibits A and B should be attached to the Plan and the rest to the Disclosure Statement (as stated in the Disclosure Statement). Attaching duplicate exhibits to both documents adds confusion, and expense to copy and mail the documents.

(ii) Exhibit B (dkt. 72 at PDF p. 10)

This exhibit shows a cure amount of "none" but then lists a negative amount on the Effective Date, which artificially reduces the payments required on the Effective Date. It appears that, but for this calculation error, Debtor would run out of cash in the first month.

(iii) Exhibit C (dkt. 72 at PDF pp.12-13)

First, despite overly optimistic projections (see below) this exhibit still shows projected losses. Second, there is no support for the projections: Exhibit C1, lines 1a and 1b include a space to show the source. Both "Historical gross inc." and "Historical expenses" are supposed to be dollar amounts from a "recent MOR part IX or equivalent" which is supposed to be "attached/at docket# _____," but there is no such document attached or referenced. (Emphasis omitted.)

(iv) Exhibit E (dkt. 72 at PDF p. 15)

This exhibit shows monthly payments of \$1,137.68 to the State Bank of India, for total payments of \$50,000 on its bifurcated secured claim. First, this is completely different from the \$3,667.23 shown on Exhibit A (dkt. 72 at PDF p.9) on its unbifurcated claim. What treatment is Debtor actually proposing?

Second, because the spreadsheet automatically fills in the numbers from Exhibit E on Exhibit A, someone must have substituted different exhibits (perhaps from different drafts). This means that counsel's declaration (dkt. 72, p.7) that the spreadsheet has not been altered is FALSE.

This is the second time that unauthorized modifications have occurred. Debtor's counsel is cautioned that if this happens again that may result in sanctions.

(b) Feasibility of any reorganization

(A) Actual performance

MOR #7 (for 2/19, dkt. 74, p.1) shows a net loss despite an "IRS

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refund & transfers from savings," and despite the fact that the adequate protection payment to Bank of India is only \$2800/mo. (MOR dkt.74, at PDF p.12) but the Plan (dkt. 72) proposes to pay the bank \$3,667.23/mo. How is that remotely realistic?

(B) Projections

A letter from Debtor's principal dated 3/12/19 (dkt. 72, at PDF p.11) states that Nov.-Jan is "always usually a much slower period in our industry and sales will normally be lowest during these months"; but the letter projects better performance in February and an increase of \$500 per 7-month period thereafter (the Disclosure Statement is even rosier, with a projected \$1000 increase in the first period, dkt. 73, Ex.C, line 7a, Period A). If those projections are already off, how can this Court find that any plan is feasible (11 U.S.C. 1129(a)(11))?

Should this case be dismissed or converted?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (not timely served, see dkt. 24, 35 & 41, but the tentative ruling is not to set a new bar date because any party in interest who asserts prejudice can seek relief).

(b) Plan/Disclosure Statement*: see above. The tentative ruling is that, if this case is not dismissed or converted, Debtor will need to show substantial progress in MOR results before any further revisions to any plan or disclosure statement.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 4/30/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues

(a) Disclosure statement (dkt. 64) and plan (dkt. 65)

Judge Bason will review various issues with these documents at the Status Conference, and address when amended documents must be filed.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: see above

(c) Continued status conference: The tentative ruling is to continue this status conference to 3/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues

(a) Monthly Operating Reports ("MORs")

The November MOR (dkt. 62, p.2) includes numerous entries described as "Funds Transfer." How is the reader to know what that means? The same MOR includes a column of numbers with nothing else next to it (dkt. 62, p.3). How is the reader to know what that means?

(b) Plan and Disclosure Statement ("D/S")

The deadline to file the Plan and D/S is fast approaching (see below).

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What is the outline of Debtor's intended plan? Has Debtor reviewed Judge Bason's procedures and form of order re same?

(c) Employment of counsel

At the hearing on 12/11/18 this Court adopted the tentative ruling approving counsel's employment, which directed that a proposed order be lodged within 7 days. Why has no such order been lodged?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: 1/31/19 (dkt. 59)

(c) Continued status conference: The tentative ruling is to continue this status conference to 2/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) MORs (dkt. 51, 52, 50 for Aug., Sept. & Oct.)

(i) The Payroll Account continues to show a negative balance. How is that sustainable? (ii) The amended August MOR provides for payments to insider Savita Viradia. Why was there no notice of insider compensation filed and served for this person, and what consequences should follow? (iii) The Tax Account shows no activity, and the Tax Liabilities section is blank. Is Debtor paying and/or reserving for all employment, sales, business, income,

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and other taxes?

(b) Motion to employ (dkt. 49)

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: The tentative ruling is to continue this status conference to 1/15/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) MORs (dkt. 44, 45)

MOR1 (for August, 2018) shows an ending balance of negative \$4,549.03. MOR2 (for September 2018) shows an ending balance of negative \$4,074.81. Both MORs also show negative postpetition accounts receivable. What does that mean?

Both MORs were also filed late. They were due middle of the month following the reporting period, and this Court's adopted tentative ruling for 10/9/18 directed that the defective August MOR be cured by 10/15/18 but it

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and the September MOR were not filed until 10/31/18.

Are the (untimely) MORs inaccurate? How can parties in interest and this Court rely on them for current information? If they're accurate, they appear to show losses, or at least an inability to generate profits that would be needed to reorganization.

In view of all the foregoing, should this case be converted or dismissed?

(b) Insider compensation

Debtor's notices of insider compensation (dkt. 46, 47) were not served until 10/24/18, even though this Court's adopted tentative ruling for 10/9/18 directed service no later than 10/12/18. Why?

Meanwhile, although Debtor's principal Neel Viradia declares under penalty of perjury that no unauthorized insider compensation has been paid (dkt. 45, p.16, answer #2), the breakdown of payroll in the MORs apparently shows otherwise (e.g., dkt. 45, p.5, lines 1-2). The form itself states (e.g., dkt. 47, p.2, bottom of page): "[T]his notice ... must be filed and served fifteen days before any pay out of compensation" What consequences should follow from Debtor's apparent violation of that limitation?

(c) Employment (dkt. 32, superseded by amended application, dkt. 42)

The amended application does not specify whether the \$10,000 fee already paid by Batuk Viradia (and the filing fee), or the \$2,000 he has committed to pay, are loans to Debtor, or gifts, or equity investments, or something else. Nor has he filed a declaration confirming that he understands that proposed counsel's sole loyalty must be to Debtor (not to Mr. Viradia), and that has been informed that there might be conflicts of interest and he may wish to seek separate counsel (e.g., conflicts could exist if Mr. Viradia received any preferential payments or other avoidable transfers, or if Mr. Viradia would prefer that Debtor take a course of action that is not in the best interests of creditors).

More generally, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

The tentative ruling is that, if this case is not dismissed or converted, the employment application must be continued to the date of the continued status conference (set forth below) with a deadline of 11/13/18 for Debtor to

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file Mr. Viradia's declaration, with a copy of this tentative ruling attached as an exhibit, addressing the issues described above.

(d) Cash collateral. If this case is not dismissed or converted, the tentative ruling is to authorize the use of cash collateral on a final basis, on the same terms as the interim authorization (dkt. 37).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35). Although the order was not timely served (see dkt. 41), the tentative ruling is that the confusion of setting yet another bar date would outweigh the benefit, and that this Court can address any prejudice from shortened notice when and if anyone files a late claim and seeks to have the claim treated as timely.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 12/11/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

Revised Tentative Ruling for 10/9/18:

Appearances required.

(1) Current issues.

(a) Cash collateral. The tentative ruling is to authorize the use of cash collateral as set forth in the tentative ruling for calendar no. 6 (10/9/18 at 1:00 p.m.).

(b) Insider compensation. Local Bankruptcy Rule ("LBR") 2014-1(a) requires a notice and opportunity to object before any insider compensation is paid. But no such notice has been filed, and Debtor's Monthly Operating Report ("MOR") for the month ending 8/31/18 reflects payments to each of two insiders. Dkt. 34, at PDF p.8. The tentative ruling is to direct Debtor to serve the notice using the local form no later than 10/12/18.

(c) Bar date. On 9/5/18 this Court entered its "Order Setting Bar Date: November 9, 2018; and Directing Service by Debtor." Dkt. 24. The debtor failed to serve that order. Why? The tentative ruling is to issue an amended

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order setting a bar date as set forth below.

(d) MOR (dkt. 34). The MOR appears to be incomplete. For example, it refers to multiple accounts but appears to provide only a combined report; many of the entries are vague or have no description; and page one includes a reference to "Non DIP personal checking (see attached letter)" but no letter or any other explanation is attached. The tentative ruling is to set a deadline of 10/15/18 to file an amended MOR correcting these and any other deficiencies.

(e) Employment (dkt. 25). As highlighted by the objection of the United States Trustee ("UST") (dkt. 28), the parties should be prepared to address (a) the proposed \$12,000 flat fee under 11 U.S.C. 328 and (b) the source of the "loan" for \$10,000 of that fee (dkt. 25, p.8) and the source of the remaining \$2,000 plus the filing fee.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: See above. In view of Debtor's failure to serve the order (dkt.24), the tentative ruling is to issue an amended order setting a bar date of 12/28/18 and directing the debtor to serve that order no later than 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/6/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

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Tentative Ruling for 9/4/18

Appearances required by counsel for the debtor and by the debtor(s) themselves.

- (1) Current issues. This Court has no issues to raise sua sponte.
 - (2) Deadlines/dates. This case was filed on 8/2/18.
 - (a) Bar date: 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: file by 11/1/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 10/9/18 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Newark Special Technologies, Inc.

Represented By
Joseph L Pittera

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fr. 4/10/18, 5/1/18, 6/12/18, 08/07/18, 9/4/18,
10/16/18, 11/6/18, 12/11/18, 01/15/19, 2/26/19,
3/26/19

Docket 7

Tentative Ruling:

Tentative Ruling for 4/30/19:

Appearances are not required on 4/30/19.

(1) Current issues

(a) First amended Disclosure Statement (dkt. 70) and Plan (dkt. 71)

The tentative ruling is to authorize and direct Debtor to fill out and lodge, no later than 4/25/19, the form of order on Judge Bason's portion of the Court's website (www.cacb.uscourts.gov) setting a combined hearing on final approval of the disclosure statement and confirmation of the Plan. The hearing should be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 70, 71)*: See above.

(c) Continued status conference: 6/11/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. ("WF," Class 2B in the debtor's draft Plan, dkt. 47)? If Debtor cannot negotiate a consensual resolution with WF, Debtor must either attempt a non-consensual plan or this case may be dismissed or converted.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 4/30/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. ("WF," Class 2B in the debtor's draft

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Plan, dkt. 47)? This case is nearing its one year anniversary. If Debtor cannot negotiate a consensual resolution with WF, Debtor must either attempt a non-consensual plan or this case may be dismissed or converted.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 1/15/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if

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advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Wells Fargo. What progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47)?

(b) BONY/Mellon. The tentative ruling is to approve the Bank of New York Mellon Stipulation (dkt. 52).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 12/11/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties should be prepared to discuss what progress has been made in negotiation with secured creditor Wells Fargo Bank, N.A. (Class 2B in the debtor's draft Plan, dkt. 47). This Court is aware of the motion to approve the stipulation with the holder of Class 2A claims, Bank of New York Mellon (the "Mellon Stip," dkt. 52). The tentative ruling is to move the Mellon Stip hearing from 11:00 a.m. to 1:00 p.m., and continue this status conference to the same

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date and time, with no written Status Report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's draft plan (dkt. 47) and disclosure statement (dkt. 46) and this Court has no issues to raise sua sponte. Has the debtor had any negotiations with secured creditors? Is it more appropriate to allow additional time for such negotiations, or to authorize the debtor to mail a voting package to all parties in interest and set a combined hearing on final approval of the disclosure statement and confirmation of the plan for the same time and date as the continued status conference set forth below?

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 46, 47)*: See above.

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 8/7/18:

Continue as set forth below. Appearances are not required on 8/7/18.

- (1) Current issues. This Court has no issues to raise sua sponte.
- (2) Deadlines/dates. This case was filed on 3/6/18.
 - (a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).
 - (b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 9/4/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

- (1) Current issues. The debtor's proofs of service continue to be defective. Elizabeth Cruz declares that she has served the "PROOF OF SERVICE" itself, not the underlying orders. See dkt. 20 at PDF p.2 and dkt. 31 at PDF p.2.

At the hearing counsel is directed to explain why the proofs of service are defective, and what steps will be taken to correct this issue so that it no longer occurs. The deadline is 6/19/18 to file further amended proofs of service of both orders (the order setting principal status conference etc. at dkt. 6, and the bar date order at dkt. 23).

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- (2) Deadlines/dates. This case was filed on 3/6/18.
- (a) Bar date: 6/15/18 (Order, dkt. 23). See above.
 - (b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 8/7/18 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/1/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

- (1) Current issues.
- (a) Budget motion (dkt. 13). Counsel must address:
 - (i) Income as of petition date or current? The debtor has filed an amended bankruptcy Schedule I (dkt. 30). Is that actually intended to be a decaration of postpetition income, or a correction of the debtor's income as of the petition date?
 - (ii) Amended budget motion? Should an amended budget motion needs to be filed and served, or is such notice unnecessary and should the budget be deemed amended, in view of what appears to be an increase of approximately \$168 in the debtor's monthly income (compare dkt. 13 at PDF p.8, debtor's personal income of \$2,800, with dkt. 30, line 7, debtor's personal income of \$2,968)?
 - (b) Cash collateral motion (dkt. 12). Grant on a final basis, on the

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same terms as the interim order (dkt.24).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (Order, dkt. 23). **Note**: Timely served? Per the proof of service (dkt. 26, the "POS") the debtor served the POS itself on creditors. Presumably the debtor means that she served the order on creditors (not the POS), but the debtor is directed to file an amended POS saying so, no later than 5/3/18.

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/12/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Failure to serve order. This Court's order setting this status conference (dkt. 6) directed the debtor to serve a copy of that order on all parties in interest no later than 14 days prior to this status conference. No proof of service appears on the docket. The tentative ruling is to set a deadline of 4/11/18 for the debtor to effect such service, with a caution to counsel that in future such failure may result in sanctions.

(b) Budget motion (dkt. 13). Grant on an interim basis, with a final

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hearing on the same date at the continued status conference set forth below.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/24/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/1/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

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#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19, 4/9/19

Docket 26

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See # 6 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:17-10002 Rescue One Ambulance

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#13.00 Cont'd Status Conference re: Post Confirmation
fr. 1/17/17, 1/31/17, 2/21/17, 4/11/17, 05/09/17,
6/20/17, 8/22/17, 10/17/17, 12/12/17, 2/27/18,
5/29/18, 9/18/18, 12/18/18, 1/29/19, 2/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Debtor is directed to provide an oral status report regarding the status of the IRS payment and the final decree.

The tentative ruling is to continue this status conference to 6/18/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Debtor is directed to provide an oral status report. This status conference has been continued several times in anticipation of the final resolution of all pending matters and issuance of a final decree, but that has

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yet to happen. Why not?

The tentative ruling is to continue this status conference to 4/9/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then. Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Continue to 1/29/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then. Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This status conference was continued from 8/18/18 to 9/18/18 (dkt.142). Based on recent docket activity, this Court is aware of the following issues.

(a) Dispute with State Compensation Insurance Fund (dkt. 145-156, 158, 159). Has this matter been resolved? Perhaps so, because the Status Report (dkt. 170) does not mention it. If not, what is the status of the parties' disputes?

(b) Final decree (dkt. 141, 151). The Status Report (dkt. 170) projects filing another motion by 12/31/18, so the tentative ruling is to continue this post-confirmation Status Conference to 12/18/18 at 1:00 p.m., with no written status report required and with the expectation that it might go off calendar if a motion for a final decree has been filed by then.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/29/18:

Continue to 8/18/18 at 1:00 p.m., *brief* status report due 8/4/18, based on the debtor's status report (dkt. 140), with those dates all subject to being mooted if a final decree is issued before that time. Appearances are not required on 5/29/18.

(1) Current issues. This court has no issues to raise *sue sponte*.

(2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was

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confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 5/29/18 at 1:00 p.m., *brief* status report due 5/15/18, all subject to being mooted if a final decree is issued before that time. Appearances are not required on 2/27/18.

(1) Current issues. This court has no issues to raise *sue sponte*.

(2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/12/17:

Continue to 2/27/18 at 1:00 p.m., *brief* status report due 2/13/18, all subject to being mooted if a final decree is issued before that time. Appearances are not required on 12/12/17.

(1) Current issues. This court has no issues to raise *sue sponte*.

(2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rescue One Ambulance

Represented By
Michael Jay Berger

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2:19-10153 Christian Rossil

Chapter 11

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/02/19, 04/09/19

LAURA Z. NALVARTE MORENO
vs
DEBTOR

Docket 31

Tentative Ruling:

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the status conference (calendar no. 16, 4/30/19 at 1:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the status conference (calendar no. 9, 4/9/19 at 1:00 p.m.).

Tentative Ruling for 4/2/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

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Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Laura Z. Nalvarte Moreno

Represented By
Michael F Chekian

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#15.00 Cont'd hrg re: Motion to Sell Property of the Estate
Free and Clear of Liens Under Section 363(f)
fr. 04/02/19, 4/9/19

Docket 42

Tentative Ruling:

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the status conference (calendar no. 16, 4/30/19 at 1:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the status conference (calendar no. 9, 4/9/19 at 1:00 p.m.).

Tentative Ruling for 4/2/19:

Appearances required. The tentative ruling is to deny the motion unless all the issues set forth below are resolved, and if that occurs, or is reliably promised, then continue the motion to 4/30/19 at 1:00 p.m. with a deadline of 4/9/19 for Debtor to file and serve an amended motion on all creditors via U.S. mail.

The tentative ruling is to require the following:

- (a) Overbidding: Debtor must amend the overbidding procedures to address the concerns raised in the objection filed by the United States Trustee ("UST") (dkt. 39);
- (b) Rent: Debtor must satisfactorily address whether the tenant/proposed buyer is being forgiven rent and, if not, what steps are being taken to recover the missing rent payments (*id.*);
- (c) Receipt of deposits: Debtor must provide an offer of proof regarding the proposed buyer's deposits (*id.*);
- (d) Withholdings, and use of net proceeds: Debtor must provide that the sale free and clear of liens will result in Debtor holding only an approximation of the disputed portion of those liens, and the withheld portion must be specified in the motion and must be a reasonable amount; and

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Debtor must address what assurances will be provided that the net proceeds of sale will be held or will only be used for purposes that are authorized by this Court (e.g., will all net proceeds be held in a blocked account?);

(e) Notice of sale: No later than the deadline for filing and serving the amended motion, Debtor must file a notice of sale on the local form (LBR 6004-1(f));

(f) Taxes: Debtor must address the tax consequences of the proposed sale (LBR 6004-1(c)(3)(l)).

(g) "Pre-Release to Debtor": Debtor must explain and justify the tens of thousands of dollars that are listed as "Pre Release" to Debtor before the amount "Due To Seller" on the estimated closing statement (dkt. 23, Ex.B, at PDF p.43);

(h) Good faith finding: Judge Bason's posted procedures (available at cacb.uscourts.gov) provide that before any successful bidder is found to be a good faith purchaser under 11 U.S.C. 363(m), supporting declaration(s) must be filed that address:

(1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees),

(2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and

(3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Christian Rossil

Represented By
Todd B Becker

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#16.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/05/19, 03/05/19, 4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Appearances required.

(1) Current issues

(a) Relief From Stay Motion (the "R/S Motion," dkt. 31)

According to Debtor's status report (dkt. 54) the disputes with movant Ms. Moreno have been resolved by an agreement to be embodied in a forthcoming proposed adequate protection order ("APO"). The parties are directed to address whether any disputes remain, and when the APO will be lodged.

(b) Amended Sale Motion (dkt. 42)

On further review this Court is concerned with several aspects of the proposed sale of the Gage Ave. property. The proposed sale is for \$550,000, subject to overbids, to the current tenant, Ms. Gabi Rangel ("Proposed Buyer").

(i) Representing both sides

This Court recalls that at prior hearings Debtor made assurances that Proposed Buyer was representing herself. But Debtor's real estate agency, Realty World Capero, is listed as agent for both the seller (Debtor) and Proposed Buyer. See Sale Motion (dkt. 42) Ex.A at PDF pp.30-33.

Although dual agency is permissible outside of bankruptcy, within bankruptcy Judge Bason has prohibited dual agency because it means the real estate agent who represents the bankruptcy estate is not disinterested and may have an actual conflict of interest. The fact that Debtor is acting as his own agent, and his firm is representing Proposed Buyer, only makes these concerns worse. Can the Sale Motion be granted despite these concerns?

(ii) Service issues

One lienholder asserts that he did not receive the Sale Motion papers,

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and only recently learned of the proposed sale when another lienholder contacted him. See Ltd. Obj. (dkt. 52). Can this Court rely on Debtor's proof of service?

(iii) Buyer's closing costs

The estimating closing statement (dkt. 42, Ex.B, at PDF p.48) includes a "Seller Credit for Buyer[']s Closing Costs" in the amount of \$16,500. What is the basis for this distribution to Proposed Buyer? Does that effectively reduce the purchase price to \$533,500 (because \$550,000 - \$16,500 = \$533,500)? Does that make the initial overbid of \$575,000 unreasonably high, and thereby chill the bidding?

(iv) Unpaid rent

The Sale Motion reveals that Proposed Buyer owes \$1,353 for March, 2019 rent, supposedly offset by some repairs to the property; but Debtor has not yet received receipts. See dkt. 42, p.10:12-14. In addition, rent is due for April, 2019. *Id.*, p.10:15-17. What is the current status of these matters?

(v) Accounting for receipt and use of security deposit

The accounting in the Sale Motion is unclear. Nor is it clear what happened before or after Debtor filed his bankruptcy petition, on 1/18/19 (the "Petition Date").

Apparently, Proposed Buyer made a \$5,000 deposit; was supposed to make an additional \$35,000 deposit; and actually made a total deposit of \$50,000. See Dkt. 42, p.10:19-20. It is unclear if some of these funds were received after the Petition Date.

It appears that there was a "pre-release" to Debtor of the entire \$50,000 security deposit. Debtor alleges (dkt. 42, pp.10:18-11:18) that he used those funds as follows:

- \$ 20,200.00 Juan Resendiz (paid prepetition? for prepetition work)
- \$ 4,055.44 Home Depot supplies (prepetition)
- \$ 8,250.00 1st DOT (Kwait) (paid prepetition? for prepetition debt)
- \$ 5,350.00 Ramon Ruelas (repairs) (paid prepetition? prepetition

work?)

- \$ 4,770.00 Debtor's (prepetition?) payments re office lease & car
- \$ 42,625.44 total

Debtor is "unable to account for" the balance, and alleges that it "was likely used on miscellaneous expenses for [Debtor's] business and the property." Sale Motion (dkt. 42) p.11:17-18. (Debtor calculates \$4,594.56, *id.*, but this Court calculates \$7,374.56 because \$50,000 - \$42,625.44 =

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\$7,374.56.)

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Depending on the timing, Debtor's depletion of the security deposit could constitute unauthorized postpetition borrowing (11 U.S.C. 364), and his use of the resulting funds could be unauthorized postpetition acts out of the ordinary course of business (11 U.S.C. 363), or unauthorized postpetition transfers (11 U.S.C. 549). Debtor is directed to clarify the timing.

When were the "pre-releases" of the security deposit made? When were the expenditures made? How can Debtor provide any evidence regarding the timing and use of the missing \$7,374.56?

(vi) Sale "free and clear"

One of Debtor's two grounds for selling free and clear of liens is an alleged "bona fide" dispute (11 U.S.C. 363(f)(4)) regarding the dollar amount of those liens:

The Debtor, simultaneously with the prosecution of this Motion, will seek through adversary complaints filed against the secured creditors holding liens against the Property to void said liens in whole or in part. The allegations of said complaints will include usury claims and challenges to the amount of said claims (i.e., the Debtor did not receive the amounts the creditors promised to lend). Debtor proposes that proceeds in the amount of all secured claims against the Property be held in escrow by Debtor's attorney until the resolution of said adversary proceedings or as agreed to by the parties. [Sale Motion (dkt. 42), p.6:15-23 (emphasis added), and see *id.* pp.17:15-18:6.]

As of the preparation of this tentative ruling, no such adversary proceedings have been filed (except for the one against Ms. Moreno that allegedly has been settled as part of the forthcoming APO). See dkt. 40 (Adv.P. 2:19-ap-01089-NB). In addition, there is reason to doubt whether any such disputes are "bona fide."

The limited opposition of the holder of the first deed of trust, Andrew Kwiat (dkt.52), points out that he is a licensed real estate broker, which generally creates an exception to the usury limitations. More broadly, the fact that Debtor himself is a licensed real estate broker might exempt all of the liens from the usury limitations (this Court has not researched that issue, and only uses it to illustrate that Debtor's bald assertion of "usury" does not appear to be sufficient to create a "bona fide" dispute).

Debtor's other ground for selling free and clear of liens is that the sale

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price is greater than the aggregate value of all liens on the property (11 U.S.C. 363(f)(3)). See Sale Motion (dkt. 42), p.11:1-6. That appears to be a sufficient ground for authorizing the sale itself, but not for withholding any of the proceeds.

Any withholding of proceeds would have to have some bankruptcy-related purpose - e.g., to use the funds to preserve or enhance the bankruptcy estate - and would have to be conditioned on adequate protection of each lienholder's interests. See 11 U.S.C. 363(e). Debtor's Sale Motion does not suggest any such purpose, nor any such adequate protection.

Accordingly, the tentative ruling is that (assuming this Court's other concerns are sufficiently addressed and that the sale can be approved at all) all lienholders must be paid in full out of escrow. The only exception is that, to the extent Debtor has a good faith basis to challenge the reasonableness of any attorney fees or other charges, the tentative ruling is that those amounts may be withheld from distribution, but must be maintained in a blocked account, or a trust account maintained by Debtor's counsel, or the equivalent.

(vii) Requested waiver of 14-day stay

Debtor requests a waiver of the 14-day stay of Rule 6004(h) (Fed.R.Bankr.P.). But Debtor provides no reason why the sale, which has already waited many months, cannot wait 14 days longer. That appears to be especially appropriate because Debtor's latest status report (dkt. 54, p.2:12-16) states that the Gave Ave. property is only "nearing" rehabilitation, and Debtor is "awaiting approval" by the architect of an "attic addition." The tentative ruling is to deny Debtor's request to waive the 14-day stay.

(viii) Conclusion as to Sale Motion/Gage Ave. property

The parties are directed to address the foregoing issues. If this Court's concerns can be adequately addressed, the tentative ruling is to authorize the sale but require all liens to be paid in full out of escrow, with the possible exception of attorney fees and other charges that are subject to bona fide dispute and that are held in a blocked account or the equivalent.

Proposed order: If the Sale Motion is granted, Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

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- (2) Deadlines/dates. This case was filed on 1/8/19.
- (a) Bar date: 4/16/19 (untimely but excused, dkt. 25).
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 5/21/19 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances are not required on 4/9/19. The tentative continuances/dispositions of matters before this Court are set forth below.

(1) Current issues

(a) Relief From Stay Motion (the "R/S Motion," dkt. 31)

This Court contin[u]ed the hearing on the R/S Motion per the parties' stipulation (see dkt. 44) informing this Court that the parties needed time to finalize and execute an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

(b) Amended Motion to Sell Free and Clear (dkt. 42)

Grant, as this Court is satisfied that the issues raised in its 4/2/19 tentative ruling have been adequately addressed.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

- (2) Deadlines/dates. This case was filed on 1/8/19.
- (a) Bar date: 4/16/19 (untimely but excused, dkt. 25).

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 5/21/19 at 1:00 p.m., *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:
Appearances required.

(1) Current issues

(a) Financial losses and irregularities

Debtor's first Monthly Operating Report ("MOR," Jan. 2019, dkt. 17, p.1) appears to show that Debtor started with \$2,518.85 and ended with \$25.64. How is this sustainable? It appears to match Debtor's bankruptcy Schedules I&J (dkt. 1 at PDF pp.43-46), which show negative cash flow and no anticipated future change. Although Debtor's status report (dkt. 13) states that Debtor intends to sell one property and/or evict the tenant, but the docket does not reflect any progress on those things. Based on the foregoing, the tentative ruling is to dismiss this bankruptcy case.

The same MOR appears to show that Debtor paid \$150 on a "Personal Loan" from "Samuel Samuel" via "Cash App" (dkt. 17, at PDF p.2, 1/15/19 entry) - is that an unauthorized postpetition borrowing? Alternatively, is it an unauthorized payment of prepetition debt? Either way, it appears that Debtor is violating the duties of a debtor in possession.

Likewise, the MOR shows a payment of \$479.31 to Capital One Auto Carpay for an "Automobile Loan." Dkt. 17, at PDF p.3, entry for 1/22/19. What is the explanation?

Likewise, the MOR shows a payment of \$228.96 to "Charter Communications" on 1/28/19 for "Internet (Includes Past Due Amounts)."

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This appears to violate the automatic stay: what will Debtor's counsel do about that?

(b) Disregarding Court order

This Court's "Order Setting Bar Date: April 16, 2019 and Directing Service by Debtor" (dkt. 14, emphasis added) specifically directed Debtor to serve a copy of that order no later than February 11, 2019. There is no proof of such service. Why not? The tentative ruling, if this case is not dismissed, is to issue an order setting an amended bar date, and once again direct Debtor to serve a copy of that amended order on creditors (see below).

(c) Missing budget motion. At the 2/5/19 hearing and in the Initial Case Status Report (dkt. 13), Debtor represented to this Court that a budget motion would be forthcoming. As of the writing of this tentative ruling, no such motion has been filed. Why not?

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 but no notice (see above), so re-set to 5/30/19 (DO NOT service any notice - this Court will prepare an amended bar date order and that order will direct Debtor to serve it on creditors).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/9/19 at 1:00 p.m., *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

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(1) Current issues.

(a) Missing status report. Debtor is directed to explain why a Case Status Report was not filed, as required by this Court's order setting this status conference (dkt. 5).

(b) Missing "first day" motions. Debtor has failed to file a budget motion (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov). Debtor also has not filed any other typical "first day" motions (e.g., a utility motion).

(c) Negative, and inadequately supported, monthly income. Debtor appears to have a new job as a real estate broker, but even with that new (alleged) income and supplemental income as a Lyft driver he shows negative cash flow. See Bankruptcy Schedules I & J (dkt. 1 at PDF pp. 43-46).

Debtor appears to have two properties, but does not list any leases or any income from a rental property: why not?

Debtor has stated under penalty of perjury that he does not expect any changes to income or expenses (see bankruptcy Schedule I, item 13, and Schedule J, item 24). How can Debtor hope to reorganize with negative cash flow?

In addition, the (sparse) income that is reported is inadequately supported. Debtor has ignored the instructions on bankruptcy Schedule I, line 8a, to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income."

(c) Dismissal? Should this Court dismiss this case? Does the foregoing constitute a "willful failure to appear in proper prosecution" of this case, and/or a "willful" failure to comply with this Court's order setting this status conference, either of which would support dismissal with a bar under 11 U.S.C. 109(g)(1)?

(2) Deadlines/dates. This case was filed on 1/8/19. **If** this case is not dismissed, the tentative ruling is to set the following deadlines/dates:

(a) Bar date: 4/16/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status

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conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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2:13-26483 Saeed Cohen

Chapter 11

Adv#: 2:14-01484 Cohen v. Cohen

#1.00 OSC re: Why Adversary Proceeding Should Not Be Closed

Docket 48

Tentative Ruling:

Close this adversary proceeding, based on this Court's order setting this hearing (adv. dkt. 48) and Debtor's response (adv. dkt. 51), without prejudice to any party's rights in this adversary proceeding, and without prejudice to reopening if good cause is shown to do so. Appearances are not required on 4/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young

Defendant(s):

Fariba Cohen

Represented By
Johnny White
Jonathan Shenson

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Plaintiff(s):

Saeed Cohen

Represented By

Beth Ann R Young

Krikor J Meshefejian

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2:17-22648 Checkmate King Co., LTD

Chapter 11

#2.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.4, 4/30/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

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Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required.

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(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.

(c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

Appearances required.

(1) Current issues.

(a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).

These documents, and the supporting declaration of Yuichiro Sakurai

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(dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

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- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)
 - (b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

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Checkmate King Co., LTD

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(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

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(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

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Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

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CONT... **Checkmate King Co., LTD**

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(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on a final basis.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

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Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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#3.00 Cont'd hrg re: Motion For Issuance Of Order To Show Cause Why Debtors Should Not Be Ordered To Comply With The Terms Of Their Second Amended Plan And Held In Contempt For Obstructing The Sale Of Their Japanese Residence And Failure To Transfer All Funds In Their Japanese Bank Account(S) To A U.S.-Based Debtor Account fr. 3/26/19, 4/9/19

Docket 384

Tentative Ruling:

Tentative Ruling for 4/30/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.4, 4/30/19 at 2:00 p.m.).

Tentative Ruling 4/9/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

Tentative Ruling 3/26/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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#4.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Appearances are not required.

(1) Current Issues

(a) Implementation of the Plan; OSC (Sakurai dkt. 386), OSC Supp. (id. dkt. 399), and Sanctions Order (id. dkt. 407).

Based on the Debtors' Status Report (Sakurai dkt. 417), Debtors have failed to comply with the OSC, OSC Supp. and Sanctions Order. In addition, it appears that Debtors are refusing to sell the Las Vegas Property.

Based on the supplemental evidence (Sakurai dkt. 408), the tentative ruling is to award the Fresco Parties \$10,371.50 in attorneys fees as compensatory sanctions (without prejudice to seeking additional amounts in future). In addition, the tentative ruling is to increase coercive sanctions to \$200.00 per day against Debtors until they comply with this Court's prior orders.

Proposed orders: The Fresco Parties are directed to lodge proposed orders (one awarding interim compensatory sanctions, and one increasing the coercive sanctions) via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 4/30/19, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

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- (c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases): 5/7/19 at 2:00 p.m. (no written status report required), to be concurrent with the motions of Debtors' counsel to withdraw.
- (d) Continued adversary proceeding status conference (Radiology/Fower): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 4/9/19:
Appearances Required**

(1) Current Issues

(a) Implementation of the Plan; Order to Show Cause ("OSC," dkt. 386), and supplemental order ("OSC Supp," dkt. 399)

Debtors have not responded to the OSC (dkt. 386) or the OSC Supp (dkt. 399). The Fresco Parties have responded with a supplemental brief (dkt. 403) pointing out that this Court cannot appoint a chapter 11 trustee, but also recapping the disadvantages of conversion to chapter 7, and suggesting instead that (i) this Court should sanction Debtors, (ii) this Court should replace the current disbursing agent under the confirmed Plan, Mr. Aronson, with a new disbursing agent (the mechanism to choose such a person is not discussed), and (iii) this Court should vest that person with the power to execute documents to implement the Plan pursuant to 11 U.S.C. 1142(b):

1142. Implementation of plan

* * *

(b) The court may direct the debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of property dealt with by a confirmed plan, and to perform any other act, including the

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satisfaction of any lien, that is necessary for the consummation of the plan.

The tentative ruling is to find that the individual Debtors are in contempt of court for each of the reasons stated in the OSC and the OSC Supp, and to award the compensatory, coercive, and punitive sanctions set forth below. As for issuing order(s) replacing the disbursing agent and vesting some person with power to execute documents and do other things necessary or appropriate to implement the Plan, this Court is concerned that such orders might exceed the scope of authority under section 1142(b), but similar relief might be available using other mechanisms, perhaps only after commencing an adversary proceeding or perhaps not, under Rules 70 and 71 (Fed. R. Civ. P., incorporated by Rules 7001(7), 7070, 7071, and 9014(c), Fed. R. Bankr. P.). The parties are directed to address these issues at the hearing.

As for sanctions, the tentative ruling is to set a deadline of 4/14/19 for the Fresco Parties to file and serve their declaration(s) with attached timesheets, a deadline of 4/23/19 for Debtors and the U.S. Trustee to file and serve any responses, and any reply may be presented orally at the continued hearing. In addition, the tentative ruling is to impose coercive sanctions, payable to the Court, starting at \$100 per day and continuing until Debtors comply with all of their obligations set forth in the OSC and the OSC Supp, all subject to being increased or otherwise adjusted at the continued hearing. In addition, the tentative ruling is to impose punitive sanctions of \$2,500, payable to this Court, also subject to adjustment in future (either by this Court or by the District Court if punitive sanctions or other issues are before the District Court - because of the limitations on this Bankruptcy Court's ability to award any punitive sanctions, it may be necessary for the District Court to address that issue, which might be accomplished by a recommendation from this Court for withdrawal of the reference, perhaps only for that limited purpose, or which might be based on proposed findings of fact and conclusions of law by this Court, or any other mechanism that is appropriate). See *In re Dyer*, 322 F.3d 1178, 1195 (9th Cir. 2003); see also *In re Count Liberty, LLC*, 370 B.R. 259, 274 (Bankr. C.D. Cal. 2007).

The continued hearing on the OSC and the OSC Supp will be concurrent with the continued status conference set forth below.

(b) Coordination with Japanese authorities

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This Court intends to address briefly with the parties what methods may be appropriate to request and obtain the assistance of any authorities in Japan in enforcing the terms of the Plan and this Court's orders. This Court may set a briefing schedule to address those things.

- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).
 - (c) Continued post-confirmation status conference (in the Sakurai and Checkmate cases): 4/30/19 at 2:00 p.m. (status report due 4/23/19).
 - (d) Continued adversary proceeding status conference (Radiology/Fower): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:
Appearances Required

(1) Current Issues

- (a) Order to Show Cause ("OSC," dkt. 386)
The parties should be prepared to address the issues raised by the OSC (dkt. 386), the motion for the OSC (dkt. 384), the status report (dkt. 390), the declaration of the Sakurais' counsel Mr. Gebelt (dkt. 391), and the reply of the Fresco Parties (dkt. 392).

- 2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).
 - (c) Continued post-confirmation status conference (in the Sakurai and

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Checkmate cases, and the related RS/Fower adversary proceeding): 4/30/19 at 2:00 p.m. (status report due 4/23/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 1/15/19:

Appearances Required

(1) Current Issues

(a) Final Fee Application for Debtor's Counsel (*Checkmate*, dkt. 249, 250, 253, 255, 257, 258, 261, 264; and *Sakurai*, dkt. 343, 346, 352, 355, 356, 363, 367)

The applications seek \$350,846.10 (*Checkmate*) and \$118,796.75 (*Sakurai*). This Court has allowed a total of \$300,000, and set this continued hearing to address the balance of \$169,642.85. See Interim Fee Orders (dkt. 261, *Checkmate*; dkt. 363, *Sakurai*).

The Fresco parties' objections note that this Court has on more than one occasion expressed grave concerns about whether these Debtors have adequately prosecuted these bankruptcy cases. Of course, this Court expects that counsel for the debtors would not in any way have participated in any attempts by these Debtors to mislead or obstruct creditors in these cases, but that is not the end of the inquiry.

On the one hand, when there are legitimate strategic or tactical reasons to chose among different courses of action, counsel for Debtors usually must act at their clients' direction, even if they might harbor some doubts about the efficacy of those choices. On the other hand, in addition to the ethical limits of what counsel may do at their clients' direction, counsel are only permitted "reasonable compensation for actual, necessary services" (11 U.S.C. 330(a)(1)(A) (emphasis added)), and in determining what compensation is reasonable this Court "shall consider the nature, the extent, and the value of such services, taking into account all relevant factors,

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including [among other things] whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, [these bankruptcy cases]."

In these cases there are open questions about (i) Debtors' own acts and omissions, and whether Debtors were or were not engaging in a lack of diligent prosecution of these cases or other misconduct, (ii) whether Debtors, if deposed or examined at trial on those issues, will or will not assert advice of counsel, and (iii) whether, regardless of the foregoing issues, counsel for Debtors can satisfy the above-referenced statutory requirements. For all of these reasons, the tentative ruling is that the Fresco parties must have a reasonable period of time in which to conduct discovery to investigate Debtors' apparent failures to prosecute these cases or other misconduct, and whether, in view of the results of any such discovery, the compensation sought by counsel for Debtors is for "necessary" services and is "reasonable" in dollar amount, given all of the facts and circumstances.

Meanwhile, although this Court recognizes that all interim compensation may be revisited in connection with any final award, the question is how much to award on an interim basis, and whether any disbursed funds must be held in trust. The tentative ruling is to award another \$35,000 to counsel for Debtors, to be allocated pro rata in proportion to their outstanding fee requests, without requiring any portion of those funds to be held in trust, but also without prejudice to allowance of a greater or lesser final award.

The parties should be prepared to address the schedule for discovery on the issues outlined above. The tentative ruling is that a five month period is appropriate.

Then, in connection with any final fee award, or at such other time as this Court may later determine, the Fresco parties' objections can be revisited with the benefit of both (i) any discovery and (ii) any subsequent developments. For example, any additional disclosures and/or recoveries in the Fower/Radiology litigation might shed light on whether Debtors' and their counsel's strategies and tactics in dealing with those parties were appropriate at the time they were made. (This Court emphasizes that any subsequent developments would be relevant only to the extent they shed light on what was reasonable at the time the legal services were rendered - not for purposes of "20/20 hindsight.")

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- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.
 - (c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 3/26/19 at 2:00 p.m. (status report due 3/19/19).
- *Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

This Court anticipates posting a tentative ruling at a later time.

**Tentative Rulings for 10/26/17 through 1/8/19:
[OMITTED FOR BREVITY]**

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

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#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19, 4/9/19

Docket 26

Tentative Ruling:

Revised Tentative Ruling for 4/30/19:

Appearances required.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

(i) Evidentiary Objections of Poser Investments, Inc. ("Poser") (adv. dkt. 32)

The tentative ruling is to sustain Poser's Evidentiary Objections except as to lack of personal knowledge.

(ii) MSJ

The tentative ruling is to grant the MSJ (adv. dkt. 13) for the reasons stated in the MSJ and Poser's Reply (adv. dkt. 31). Rule 56 (Fed. R. Civ. P., incorporated by Rule 7056, Fed. R. Bankr. P.). But Judge Bason will have some questions for the parties at the hearing regarding the interaction of Federal, California, and other State law, and principles of claim and issue preclusion and retraxit.

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

The tentative ruling is to deny the Motion for Leave to File Cross-Complaint for the reasons stated in Poser's opposition (adv. dkt. 30).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 7/9/19 at 1:00 p.m., written status report due 7/2/19.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 2/26/19:

Continue as set forth below, with a deadline to file a draft plan and disclosure statement as set forth below. Appearances are not required on 2/26/19.

(1) Current Issues

(a) First Interim Fee Application (dkt. 72). Grant \$19,755.00 in fees and \$173.80 in expenses. *Proposed order*: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: file by 4/1/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

*Warning: special procedures apply (see order setting initial status conference).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to

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Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

- (c) Continued status conference: 4/30/19 at 1:00 p.m., no written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m. Appearances are not required on 1/29/19.

(1) Current Issues

- (a) No current issues to address.

(2) Deadlines/dates. This case was filed on 9/12/18.

- (a) Bar date: 1/11/19 (timely served, dkt. 59).

- (b) Plan/Disclosure Statement*: TBD

- (c) Continued status conference: 2/26/19 at 1:00 p.m., Status Report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Appearances required

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Chapter 11

(1) Current Issues

(a) Budget Motion (dkt. 11)

Grant on a final basis.

(b) Amended Cash Collateral Motion (dkt. 50)

Grant on a final basis. Per Debtors' status report (dkt. 49, p.3), the proposed order must include language that it shall not be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23.

(c) Motion to Employ Counsel (dkt. 18)

Grant on a final basis, based on the (late-filed) declarations of Julius and John Adeoye (dkt. 57, 58). See Interim Order (dkt. 39) & Egbase Decl. (dkt. 47).

(d) Proposed orders

Debtors are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/29/19 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required by counsel for the debtor and by Debtors themselves.

(1) Current issues

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(a) Status report (dkt. 43, 45)

Debtors have not used the Local Form, which is mandatory in this case (see Judge Bason's posted procedures, available at www.cacb.uscourts.gov). The tentative ruling is to set a deadline of 11/13/18 to file the form and serve it on the United States Trustee.

(b) Motion to Employ Debtors' Counsel (Dkt. 18)

Debtors have not adequately addressed the issues in this Court's interim order (dkt. 39). Although proposed counsel declares (dkt. 47) that he has "learned" (from unspecified hearsay) that Debtors' relatives have funded the \$15,000 retainer as a gift, there is no declaration from the two alleged donors confirming this, and confirming all of their "connections" with all parties in interest and their attorneys and accountants (see dkt. 39, section 6.(a)), and their informed consent to potential or actual conflicts (*id.*, sec. 6.(c)), and Debtors' informed consent (*id.*, sec. 6.(d)). The tentative ruling is to continue this matter to the same time as the continued status conference (see below) and set a deadline of 11/13/18 to file appropriate declarations and serve them on the United States Trustee.

(c) MOR1 (Sept., 2018, dkt. 36)

Debtors report that they spent \$1,350.43 in cash, with no breakdown and just a vague description about "personal expenses," "charitable contributions," etc. The tentative ruling is that any proposed order authorizing the proposed budget must include a prohibition on Debtors spending more than \$50 cash on any one item or \$250 cash in the aggregate per month without attaching photocopies of receipts.

Several insurance policies have expired or are about to (see dkt. 36, at PDF p.16). What are Debtors doing about that?

(d) Motion to Use Cash Collateral (dkt 20)

First, Debtors failed to lodge a proposed order authorizing the use of cash collateral on the terms set forth in the adopted Tentative Ruling for 10/16/18 (see calendar no. 20, 11/6/18 at 1:00 p.m., which includes a copy of that earlier tentative ruling). The tentative ruling is to set a deadline of 11/13/18 to lodge that proposed order, with a copy of that tentative ruling attached.

Second, the original motion appears to have been superseded by an amended motion, which has not been separately filed and served but instead is attached as an exhibit to a supplemental declaration. See dkt. 29, Ex.B. The tentative ruling is to set a deadline of 11/13/18 to file and serve that

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motion, which will be heard at the same date and time as the continued status conference (see below).

Third, the tentative ruling is that no order granting Debtors' motions regarding cash collateral shall be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23. Debtors are directed to make this clear in their proposed orders.

(b) Motion for Order Approving a Budget (Dkt. 11)

Grant on an interim basis, with a continued hearing at the same time as the continued status conference (see below). The tentative ruling is that Debtors' (late-filed) declaration (dkt. 29 & Ex.A) has adequately addressed this Court's concerns about charitable donations.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/18/18 at 1:00 p.m., *brief* status report due 12/11/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By

Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By

Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#6.00 Cont'd Status Conference re: Removal
fr. 2/5/19, 4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Tentative Ruling for 2/5/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 9) and the other filed documents and records in this adversary proceeding. Based on those documents it appears that both the plaintiff (Poser Investments, Inc., "Poser") and the Debtor-defendants agree that the four properties at issue either were never properly transferred or have been returned to Debtors, and either way they are now part of the bankruptcy estate. The principal remaining issues appear to be:

- (1) Will the other defendants contest that issue?
- (2) Does this Bankruptcy Court require jurisdiction over those other defendants (so as to enter a judgment against them, or at least against the interests that they previously asserted against the four properties), and if such jurisdiction is required, is such jurisdiction established by their appearance in the removed State Court action, or do they consent to *in personam* jurisdiction?
- (3) Does the underlying default judgment obtained by Poser's predecessor in interest against Debtors have a preclusive effect against the Debtor-defendants?
- (4) Does Poser have allowable secured claims against the four

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properties based on the *lis pendens* and abstracts of judgment?

The parties are directed to address whether there are different principal issues that this Court has not identified. In addition, the parties are directed to address why it would be necessary to have further discovery (in addition to what has already been conducted in the State Court) to address these issues. These appear likely to be resolved based on an application of the law to the undisputed facts, after briefing - e.g., motion(s) for summary judgment.

Meanwhile, it appears appropriate to order mandatory mediation, as set forth below.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the

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parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/10/18. The tentative ruling is not to set any deadlines (e.g., for cutoff of discovery) at this time, so as to provide time for mediation and/or motion(s) for summary judgment on potentially dispositive issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By

Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Pro Se

Elizabeth Ebuehi

Pro Se

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

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Chapter 11

2551 YORKSHIRE WAY TRUST, Pro Se

1580 W. 2ND STREET TRUST, Pro Se

DOES 1 through 100, inclusive Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#7.00 Hrg re: Motion for Leave to File Cross-Complaint

Docket 16

Tentative Ruling:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#8.00 Hrg re: Motion For Summary Judgment

Docket 13

Tentative Ruling:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

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2:19-14626 XELAN Prop 1, LLC

Chapter 11

#9.00 Hrg re: Motion for Order Dismissing Chapter 11
Case with Prejudice

Docket 12

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The tentative ruling is to grant the motion (dkt. 17) and dismiss this case with a permanent bar to being a debtor in bankruptcy (unless and until otherwise ordered by this Court) and with a concurrent bar (for the first 180 days) under 11 U.S.C. 109(g)(1). See 11 U.S.C. § 105(a), 109(g)(1), 349(a), 1307(a); and see *In re Glover*, 537 Fed.Appx. 741 (9th Cir. 2013) (affirming dismissal with a five-year bar to refiling under 11 U.S.C. § 105(a)); *In re Leavitt*, 171 F.3d 1219 (9th Cir. 1999) (affirming dismissal with prejudice based upon a finding of bad faith).

The reasons are as stated in the motion and in the joinder (dkt. 23-25) and because, given the appointment of a receiver over the subject property (dkt. 12-5, Ex. 8, at pp. 323-33) and the associated facts and circumstances, including the grounds for such appointment, and Debtor's prior bankruptcy case, it appears there is no realistic expectation of turnover by the receiver (11 U.S.C. 543) and no apparent purpose to this bankruptcy case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... XELAN Prop 1, LLC

Chapter 11

Party Information

Debtor(s):

XELAN Prop 1, LLC

Pro Se

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2:14-24200 Lewis W Oliver and Mayme Ross Oliver

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

FIRST FINANCIAL CREDIT UNION
VS
DEBTOR

Docket 36

*** VACATED *** REASON: Withdrawn [dkt. 38]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lewis W Oliver

Represented By
Steven A Alpert

Joint Debtor(s):

Mayme Ross Oliver

Represented By
Steven A Alpert

Movant(s):

First Financial Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:15-15596 Dion Paul Jensen and Christy Ann Jensen

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 56

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 58).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dion Paul Jensen

Represented By
David Lozano

Joint Debtor(s):

Christy Ann Jensen

Represented By
David Lozano

Movant(s):

Wells Fargo Bank, N.A., et al

Represented By
Cassandra J Richey
Melissa A Vermillion

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CONT... Dion Paul Jensen and Christy Ann Jensen

Chapter 13

Asya Landa

Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:17-12321 Terese Marie Ramirez

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 49

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Terese Marie Ramirez

Chapter 13

Party Information

Debtor(s):

Terese Marie Ramirez

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Deutsche Bank National Trust

Represented By
Sean C Ferry
Keith Labell

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:17-16372 Eva Anderson

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

HSBC BANK USA NATIONAL ASSOC
vs
DEBTOR

Docket 126

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eva Anderson

Represented By
Edmond Richard McGuire

Movant(s):

HSBC Bank USA National

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-18093 Edik Besha and Aida Torabian

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 44

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 46).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edik Besha

Represented By
Raj T Wadhvani

Joint Debtor(s):

Aida Torabian

Represented By
Raj T Wadhvani

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

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CONT... Edik Besh and Aida Torabian

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:17-22639 Anna Kusnier

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST COMPANY
vs
DEBTOR

Docket 66

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Anna Kusnier

Chapter 13

Party Information

Debtor(s):

Anna Kusnier

Represented By
Julie J Villalobos

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:17-25335 Alice H. Liu

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 34

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alice H. Liu

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

Wilmington Savings Fund Society,

Represented By
Asya Landa

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:18-11250 Eduardo Vincent Toledo

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

US BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 53

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Eduardo Vincent Toledo

Chapter 13

Party Information

Debtor(s):

Eduardo Vincent Toledo

Represented By
Sam Benevento

Movant(s):

US Bank National Association

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:18-16732 Motiv8 Investments, LLC

Chapter 11

#9.00 Hrg re: Motion for relief from stay [RP]

WRCOF ASSET TRUST 2017-2
vs
DEBTOR

Docket 134

***** VACATED *** REASON: The matter is scheduled to be heard at a
different time. See #8.10 at 1pm**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

WRCOF Asset Trust 2017-2

Represented By
Kristin A Zilberstein

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:18-22059 JDS Hospitality Group LLC

Chapter 11

#10.00 Hrg re: Motion for relief from stay [RP]

BAKERS 26, LLC
vs
DEBTOR

Docket 108

*** VACATED *** REASON: Voluntary dismissal of motion filed 04/30/19
- [Dkt 149]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang
David Samuel Shevitz

Movant(s):

Bakers 26, LLC

Represented By
Hagop T Bedoyan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-12465 Jorge Paredes

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

SUN WEST MORTGAGE COMPANY, INC.
vs
DEBTOR

Docket 15

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Notes:

(1) Borrower, Mr. Sandoval

This Court is aware that, according to the sworn statement of Debtor's counsel, the original borrower, Mr. Sandoval, came into his office to find out what was happening; Debtor's counsel explained "hijacking" to him; and "Mr. Sandoval was in disbelief and explained that he had no knowledge of this." Dkt. 18, p.4, para.5.

This Court is empathetic to borrowers who may have been defrauded by so-called foreclosure prevention services, but as this Court has ruled in other cases, as between (a) a creditor who has been hindered, delayed, or defrauded, on the one hand, and (b) a borrower who chose the agent who did the hindering, delaying, or defrauding, on the other hand, it is the borrower who must bear the consequences (subject to suing the agent). In addition, as this Court has ruled in other cases, the borrower continues to have avenues for legitimate bankruptcy relief: the only change is that the burden of proof is on the borrower to show "charged circumstances" or "good cause" for doing so - which generally must include a realistic proposal for legitimate use of the bankruptcy system. See *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017).

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Central District of California
Los Angeles
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Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Jorge Paredes

Chapter 13

(2) Hijacker, Premier Legal Services (per dkt.18 at end)

Counsel for the moving party is directed to attach a service list to the proposed order that this Court can use. Such service list should include not only herself but also Debtor, Mr. Sandoval, and the following address, so that whatever action might be appropriate can be taken against the (alleged) hijacker:

Ronald Moroko, Esq.
Office of the United States Trustee
915 Wilshire Blvd., Suite 1850
Los Angeles, CA 90017

TENTATIVE RULING:

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... **Jorge Paredes**

Chapter 13

and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leaffy*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jorge Paredes

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Jorge Paredes

Chapter 13

Jaime A Cuevas Jr.

Movant(s):

Sun West Mortgage Company, Inc.

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-13113 Lekha Shaji

Chapter 13

#12.00 **[CASE DISMISSED ON 4/08/2019]**

Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.

vs

DEBTOR

Docket 11

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT...

Lekha Shaji

Chapter 13

laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lekha Shaji

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Lekha Shaji

Chapter 13

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-13824 Carmen L Burton

Chapter 7

#13.00 Hrg re: Motion for relief from stay [RP]

LAWRENCE KOPPELMAN, et al
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT...

Carmen L Burton

Chapter 7

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carmen L Burton

Pro Se

Movant(s):

Lawrence Koppelman, et al

Represented By
William C Beall

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:18-24884 Johnny Campbell and Nyeshia Campbell

Chapter 13

#14.00 Hrg re: Motion for relief from stay [PP]

EXETER FINANCE, LLC
vs
DEBTOR

Docket 22

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Johnny Campbell

Represented By
D Justin Harelik

Joint Debtor(s):

Nyeshia Campbell

Represented By
D Justin Harelik

Movant(s):

Exeter Finance, LLC

Represented By
Cheryl A Skigin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-10137 Vazrik Allahverdi

Chapter 13

#15.00 Hrg re: Motion for relief from stay [PP]

ALLY BANK
vs
DEBTOR

Docket 45

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Vazrik Allahverdi

Chapter 13

Party Information

Debtor(s):

Vazrik Allahverdi

Represented By
Aris Artounians

Movant(s):

Ally Bank

Represented By
Adam N Barasch

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-13071 Aaron M Avila and Carla M Amador-Martinez

Chapter 7

#16.00 Hrg re: Motion for relief from stay [PP]

PARTNERS FEDERAL CREDIT UNION
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Aaron M Avila and Carla M Amador-Martinez

Chapter 7

Party Information

Debtor(s):

Aaron M Avila

Represented By
Christie Cronenweth

Joint Debtor(s):

Carla M Amador-Martinez

Represented By
Christie Cronenweth

Movant(s):

Partners Federal Credit Union

Represented By
Yuri Voronin

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-13991 Michelle Rose Rodriguez

Chapter 13

#17.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 9

Tentative Ruling:

Appearances required. The parties should be prepared to address whether they will agree to the terms of an adequate protection order (see the secured creditor's response, dkt. 16). In addition, if this Court is persuaded to grant Debtor's motion, it will be granted subject to the following conditions.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you

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10:00 AM

CONT... Michelle Rose Rodriguez

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michelle Rose Rodriguez

Represented By
Barry E Borowitz

Movant(s):

Michelle Rose Rodriguez

Represented By
Barry E Borowitz
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-14088 Jose Maria Alcaraz and Maria Refugio Alcaraz

Chapter 13

#18.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 6

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... **Jose Maria Alcaraz and Maria Refugio Alcaraz** **Chapter 13**
are required, and you fail to appear without adequately resolving this matter
by consent, then you may waive your right to be heard on matters that are
appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Maria Alcaraz

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Maria Refugio Alcaraz

Represented By
Jaime A Cuevas Jr.

Movant(s):

Jose Maria Alcaraz

Represented By
Jaime A Cuevas Jr.

Maria Refugio Alcaraz

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-14148 Marina Elsa Chavez

Chapter 13

#19.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 8

Tentative Ruling:

Appearances required. The parties should be prepared to address whether they will agree to the terms of an adequate protection order (see the secured creditor's response, dkt. 10, and Debtor's reply declaration, dkt. 19). In addition, if this Court is persuaded to grant Debtor's motion, it will be granted subject to the following conditions.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Marina Elsa Chavez

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marina Elsa Chavez

Represented By
Jaime A Cuevas Jr.

Movant(s):

Marina Elsa Chavez

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-14377 Raquel Espericueta

Chapter 13

#20.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 13

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Raquel Espericueta Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Raquel Espericueta

Represented By
Axel H Richter

Movant(s):

Raquel Espericueta

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:15-29161 Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/07/18, 10/2/18, 12/04/18, 12/18/18, 01/29/19,
03/05/19

DEUTSCHE BANK TRUST COMPANY AMERICAS
vs
DEBTOR (S)

Docket 40

Tentative Ruling:

Tentative Ruling for 5/7/19:

Deny as moot, in view of the parties' consensual resolution through their Court-approved loan modification (dkt. 47). Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19 (same as for 3/5/19 and 1/29/19):

Appearances required. At the hearings on 12/18/18, 1/29/19 and 3/5/19, this Court was persuaded to continue this matter for a possible finalization of a loan modification. There is no tentative ruling, but the parties should be prepared to address the status of the loan modification.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... **Victor Hugo Anaya and Nora Leticia Anaya** **Chapter 13**

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Reason: At the 12/4/18 hearing, this Court set a deadline of 12/11/18 for Debtor to provide evidence in support of any further continuance and adequate protection, including evidence of the status of the attempted loan modification. Debtor did not file any evidence by the deadline.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

In view of the alleged equity in the property this Court grants the following limited relief to Debtor:

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3).

No foreclosure sale of the property may take place prior to 2/28/19.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... **Victor Hugo Anaya and Nora Leticia Anaya** **Chapter 13**

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/4/18 (same as for 10/2/18, and 8/7/18 except telephonic appearances encouraged):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Victor Hugo Anaya

Represented By
Erika Luna

Joint Debtor(s):

Nora Leticia Anaya

Represented By
Erika Luna

Movant(s):

Deutsche Bank Trust Company

Represented By
Sheereen Middleton

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

Keith Labell
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:17-15342 Daniel Elliott Trabulus

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/02/19

US BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 36

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Daniel Elliott Trabulus

Represented By
Leon D Bayer

Movant(s):

US Bank National Association, not

Represented By
Kelsey X Luu

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:17-20136 Joyce Miller

Chapter 13

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/26/19, 3/26/19

US BANK TRUST NATIONAL ASSOCIATION
VS
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 5/7/19 (same as 3/26/19):

Appearances required. At the February 26, 2019 hearing, the Court was persuaded to continue this hearing for an adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order .

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 7, 2019

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10:00 AM

CONT... Joyce Miller

Chapter 13

stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joyce Miller

Represented By
Scott Kosner

Movant(s):

US Bank Trust National Association,

Represented By
Michelle R Ghidotti
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:18-12888 Marsha Liliene Jue-Barrett and Douglas Barrett

Chapter 13

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

CALIBER HOME LOANS, INC.
VS
DEBTOR

Docket 34

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Marsha Liliene Jue-Barrett

Represented By
Andrew Moher

Joint Debtor(s):

Douglas Barrett

Represented By
Andrew Moher

Movant(s):

Caliber Home Loans, Inc.

Represented By
Cassandra J Richey
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:18-19326 Kathleen Elizabeth Watkins

Chapter 13

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

WILMINGTON SAVINGS FUND SOCIETY, FSB
VS
DEBTOR

Docket 32

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Kathleen Elizabeth Watkins

Represented By
Gregory M Shanfeld

Movant(s):

Wilmington Savings Fund Society,

Represented By
Sean C Ferry
Francis Laryea
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:18-22918 Rosita Bello

Chapter 13

#26.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/26/19

SARLA GUPTA
VS
DEBTOR

Docket 28

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed
05/03/19 (Dkt. 55)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rosita Bello

Represented By
Matthew D. Resnik

Movant(s):

Sarla Gupta

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 13

#27.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 16

Tentative Ruling:

Debtor's declaration regarding service (dkt. 22) appears to be insufficient. First, it only addresses notice via (1) telephone, which is not a recognized means of service, (2) fax, which is only permissible with consent, as noted in this Court's order shortening time ("OST," dkt. 18, last sentence), or (3) U.S. mail, which is contrary to the expedited means required by the OST. Second, in some instances the declaration does not state that an email actually was sent, only that it "will be" sent. See, e.g., dkt. 22, at PDF p.2:16. In addition, per the OST, this Court will hear any opposition at the hearing. Appearances required.

Additionally, for the reasons stated in the Order Shortening Time (the, "OST," dkt. 18), the tentative ruling is that counsel for Debtors is not permitted to charge any attorney fees (i) for any work in connection with the OST or (ii) for appearing at any hearing on the section 362(c)(3) motion. The tentative ruling is also to impose sanctions of \$200.

If, notwithstanding the foregoing issues, this Court is persuaded to grant some form of relief, this Court anticipates that this Court will prepare the order and that any relief will include this Court's usual conditions:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT...

Angel Rodriguez Lara and Angelica Soto Calva

Chapter 13

present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:14-27760 Satheesh Sivadasan

Chapter 13

#28.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19

WELLS FARGO BANK
VS
DEBTOR

Docket 72

*** VACATED *** REASON: Voluntary dismissal of motion [dkt. 76]

Tentative Ruling:

Party Information

Debtor(s):

Satheesh Sivadasan

Represented By
Paul Horn

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:18-22545 Myesha Nicole Sherrer

Chapter 13

#29.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19

LAKEVIEW LOAN SERVICING, LLC
VS
DEBTOR

Docket 43

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Myesha Nicole Sherrer

Represented By
Andrew Moher

Movant(s):

Lakeview Loan Servicing, LLC., and

Represented By
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

2:19-12756 Cher Wang

Chapter 13

#30.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19

BB WELLS INVESTMENT INC.
vs
DEBTOR

Docket 16

Tentative Ruling:

Tentative Ruling for 5/7/19:

Grant as provided in the tentative ruling for 4/30/19 (reproduced below).
Appearances required but telephonic appearances are encouraged if
advance arrangements are made (see www.cacb.uscourts.gov, "Judges,"
"Bason, N.", "Instructions/Procedures").

Reasons: At the hearing on 4/30/19 this hearing was continued (see dkt. 19)
for Debtor to be able to file a written opposition with evidence and persuasive
argument - *e.g.*, evidence of an equity cushion providing adequate protection
to movant, and Debtor's filing of a motion to sell the subject property to an
identified buyer who is capable of performance. As of the preparation of this
tentative ruling, no such papers have been filed.

If appearances are not required at the start of this tentative ruling but you
wish to dispute the tentative ruling, or for further explanation of "appearances
required/are not required," please see Judge Bason's Procedures (posted at
www.cacb.uscourts.gov) then search for "tentative rulings." If appearances
are required, and you fail to appear without adequately resolving this matter
by consent, then you may waive your right to be heard on matters that are
appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 7, 2019

Hearing Room 1545

10:00 AM

CONT... Cher Wang

Chapter 13

7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

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CONT...

Cher Wang

Chapter 13

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cher Wang

Pro Se

Movant(s):

BB Wells Investment Inc.

Represented By
James S Yan

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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11:00 AM

2:18-11914 Chanell Deshawn Jones and Lyle David Harris

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Wesley H. Avery, Chapter 7 Trustee]

Docket 47

Tentative Ruling:

Approve the Trustee's final report, and grant his request for compensation and reimbursement, as follows. Allow and authorize payment of \$1,750.00 in fees and \$226.62 in expenses. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Chanell Deshawn Jones

Represented By
Vahe Khojayan

Joint Debtor(s):

Lyle David Harris

Represented By
Vahe Khojayan

Trustee(s):

Wesley H Avery (TR)

Represented By
Joseph E. Caceres

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11:00 AM

2:18-11914 Chanell Deshawn Jones and Lyle David Harris

Chapter 7

#2.00 Hrg re: First and Final Application for approval and payment of compensation and reimbursement of expenses [Caceres & Shamash, LLP, Counsel for Chapter 7 Trustee]

Docket 46

Tentative Ruling:

Grant as follows. Allow fees of \$5,000 (voluntarily reduced from \$7,380.00, see dkt. 47 at PDF p.13) and expenses of \$382.73 for a total of \$5,382.73. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Chanell Deshawn Jones

Represented By
Vahe Khojayan

Joint Debtor(s):

Lyle David Harris

Represented By
Vahe Khojayan

Trustee(s):

Wesley H Avery (TR)

Represented By
Joseph E. Caceres

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CONT... Chanell Deshawn Jones and Lyle David Harris

Chapter 7

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11:00 AM

2:16-15556 Anait Adzhemyan and Samuel Adzhemyan

Chapter 7

#3.00 Hearing re: Trustee's final report and account;
Application for fees and expenses
[Peter J. Mastan, Chapter 7 Trustee]

Docket 169

Tentative Ruling:

Approve the Trustee's final report, and grant his request for compensation and reimbursement, as follows. Allow \$4,250 in fees and \$81.22 in expenses, and authorize payment of a portion of those amounts - namely, \$2,917.18 in fees and \$55.76 in expenses. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Anait Adzhemyan

Represented By
Elena Steers

Joint Debtor(s):

Samuel Adzhemyan

Represented By
Elena Steers

Trustee(s):

Peter J Mastan (TR)

Represented By
Jeremy Faith

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Anait Adzhemyan and Samuel Adzhemyan

Noreen A Madoyan
Meghann A Triplett

Chapter 7

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2:16-15556 Anait Adzhemyan and Samuel Adzhemyan

Chapter 7

#4.00 Hrg re: Application for payment of final fees
and/or expenses
[Margulies Faith, LLP, attorneys for the trustee]

Docket 168

Tentative Ruling:

Allow \$37,497.00 in fees and \$1,340.43 in expenses, and authorize payment of a portion of those amounts - namely, \$25,737.65 in fees and \$920.06 in expenses. See dkt. 169 at PDF p.29. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Anait Adzhemyan

Represented By
Elena Steers

Joint Debtor(s):

Samuel Adzhemyan

Represented By
Elena Steers

Trustee(s):

Peter J Mastan (TR)

Represented By
Jeremy Faith

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Anait Adzhemyan and Samuel Adzhemyan

Noreen A Madoyan
Meghann A Triplett

Chapter 7

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2:16-15556 Anait Adzhemyan and Samuel Adzhemyan

Chapter 7

#5.00 Hrg re: Application for payment of Final Fees
and/or Expenses
[LEA Accountancy LLP, Accountant for Trustee]

Docket 166

Tentative Ruling:

Allow \$6,988.50 in fees and \$197.46 in expenses, and authorize payment of a portion of those amounts - namely, \$4,796.82 in fees and \$135.54 in expenses. See dkt. 169 at PDF p.29. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Anait Adzhemyan

Represented By
Elena Steers

Joint Debtor(s):

Samuel Adzhemyan

Represented By
Elena Steers

Trustee(s):

Peter J Mastan (TR)

Represented By
Jeremy Faith

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Anait Adzhemyan and Samuel Adzhemyan

Noreen A Madoyan
Meghann A Triplett

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11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#6.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19; 04/09/19; 04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/7/19:

Continue as set forth below. Appearances are not required on 5/7/19.

(1) Current issues. This Court is not aware of any issues that would warrant a status conference at this time.

(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dct. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

(3) Deadlines: This adversary proceeding has been pending since 11/21/17.

Discovery cutoff (for *completion* of discovery): 3/25/19 (adv. dkt. 48)

Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)

Expert(s) - discovery cutoff (if different from above):

Dispositive motions to be heard no later than: 2/11/19 [previously set, but parties appear to assume that deadline will be excused (see dkt. 53)]

Joint Status Report: 5/7/19

Continued status conference: 6/4/19 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

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Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances required.

From the prior status report (adv. dkt. 50) it appears that the previously ordered deadlines (adv. dkt. 48) may need to be revised. The parties are directed to address that issue.

(1) Motion for summary judgment ("MSJ," adv.dkt. 43). Contrary to the posted Procedures of Judge Bason, Plaintiff self-calendared the MSJ. In addition, the MSJ is set for 10:00 a.m. (on 6/4/19), which is this Court's relief from stay calendar. The tentative ruling is to reschedule the hearing to 2:00 p.m. on 6/4/19.

(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dkt. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

(3) Deadlines: This adversary proceeding has been pending since 11/21/17.

Discovery cutoff (for completion of discovery): 3/25/19 (adv. dkt. 48)

Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)

Expert(s) - discovery cutoff (if different from above):

Dispositive motions to be heard no later than: 2/11/19 [needs revision]

Joint Status Report: 5/7/19

Continued status conference: 6/4/19 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to

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chambers), including direct testimony by declaration unless excused: TBD
(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Address procedural issues and then continue this status conference as set forth below. Appearances required.

Current issues

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.).

(b) Continued hearing

The tentative ruling is to continue this status conference to 4/30/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required.

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The tentative ruling is to continue this status conference to 5/7/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

The tentative ruling is (1) to continue this status conference to 3/26/19 at 11:00 a.m., with no written status report required prior to that continued date, and (2) to extend the discovery cut off to 3/15/19 per the parties' Joint Status Report (adv. dkt. 45). Plaintiff is directed to lodge a proposed scheduling order containing this new deadline, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form. Appearances are not required on 2/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's scheduling order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. docket number(s) 23).

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(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and

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orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required but telephonic appearances are encouraged if

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advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

Reasons: At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

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CONT... David MacMillan

Chapter 7

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

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CONT...

David MacMillan

Chapter 7

Discovery cutoff (for completion of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By

Robert S Altagen

Cynthia B. Martin

Represented By

Robert S Altagen

Aston Business Solutions, Inc.

Represented By

William H Brownstein

Eric A. Martin

Represented By

William H Brownstein

Glenn J. Chaffin

Represented By

William H Brownstein

Andrae Perez

Pro Se

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CONT... David MacMillan Chapter 7

Accelerated Capital Group, Inc. Pro Se

Does I through XX Pro Se

Plaintiff(s):

Rosendo Gonzalez Represented By
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR) Represented By
James A Dumas Jr

**United States Bankruptcy Court
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2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

- #7.00** Cont'd Status Conference re: Complaint for Non-Dischargeability of Debtor Pursuant to 11 U.S.C. Section 523(a)(4) and 11 U.S.C. Section 523(a)(6) fr. 7/19/16, 12/13/16, 05/02/17, 09/12/17, 2/27/18, 6/12/18,10/9/18, 12/18/18, 1/29/19, 2/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/7/19 (same as for 2/26/19):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the status of the appeal in the civil matter.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 per the Plaintiff's filed status report (dkt. 28).
Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Armen Janian

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

The plaintiff mis-filed the status report in the main case (main case dkt. 42) instead of this adversary proceeding. The plaintiff also failed to lodge a proposed order continuing this matter (using this Court's "LOU" program), and instead attached it to the status report.

Notwithstanding these errors, the tentative ruling is to continue this Status Conference to 12/18/18 at 11:00 a.m. Plaintiff is directed to file the next status report in this adversary proceeding (not in the main case) no later than 12/4/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This matter has been continued multiple times (see tentative rulings reproduced below, and see Order, adv. dkt. 18). At the 2/27/18 hearing, this court further continued the hearing to today's date and directed plaintiff to give written notice. No such notice appears to have been filed on the docket. Why not?

There is no tentative ruling, but the parties should be prepared to address the issues described in the tentative ruling for 2/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Armen Janian

Chapter 7

Tentative Ruling for 2/27/18:

Appearances required. At the hearing on 5/2/17 this court was persuaded to continue this matter to 9/12/17. This matter was further continued to today's date (see Order, adv. dkt. 18).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/2/17:

Appearances required. At the hearing on 12/13/16 this court was persuaded to continue this matter to today's date, with a deadline of 4/11/17 to complete mediation (see adv. dkt. 13 (mediation order)).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for

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CONT... Armen Janian

Chapter 7

disposition at this hearing.

Tentative Ruling for 12/13/16:

Continue to 2/7/17 at 11:00 a.m. at which time this court anticipates addressing, in view of the State Court's determinations as to pending matters, what trial date and other deadlines to set. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/19/16:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

(1) Failure to file a status report. Why did the plaintiff not file a status report updating the Court as to the status of the pending state court litigation (adv. dkt. 4)? Should this Court issue an order to show cause based on plaintiff's disregard of this Court's order?

(2) Status of the state court litigation. What is the status of the state court litigation?

(3) Continued status conference. Assuming that the state court litigation is still pending, this Court intends to set a continued status conference for 11/8/16 at 11:00 a.m. The plaintiff must file a brief status report detailing the current status of the state court litigation by 10/25/16.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Armen Janian

Chapter 7

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
Leon Nazaretian

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian

Valerie Fykes

Represented By
Michael D Anderson

Forrest Fykes JR

Represented By
Michael D Anderson

Melissa Fykes

Represented By
Michael D Anderson

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:18-24612 Robert Panosian

Chapter 7

Adv#: 2:18-01457 Los Angeles Federal Credit Union v. Panosian

#8.00 Cont'd Status Conference re: Complaint to Determine the Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(2)(A) fr. 03/05/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/7/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Mediation: This Court ordered the parties file a mediation order by 3/19/19. Based on Plaintiff's Status Report (dkt. 12), it appears Defendant and his counsel have not cooperated in scheduling a mediation. The parties should be prepared to address whether this Court should enter an Order to Show Cause as to why Defendant and his counsel are not in contempt for failing to abide with this Court's mandatory mediation order. In addition, or in the alternative, should Plaintiff and this Court proceed to address a default judgment?

(2) Deadlines: This adversary proceeding has been pending since 12/26/19.

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: N/A

Continued status conference: 6/13/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial

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CONT... **Robert Panosian**
Practice")

Chapter 7

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Preliminary matters:

(1) No status report

The parties have failed to file any joint status report. Why not?

(2) Stay all proceedings pending mediation

This Court has reviewed the filed documents and records in this adversary proceeding. This Court notes that a Default was entered in this case on 2/7/19 (dkt. 5); Defendant/Debtor then filed an answer on 2/8/19 (dkt. 6); Plaintiff then filed a Motion for Default Judgment on 2/11/19 (dkt. 8), which is set for hearing on 3/26/19 at 11:00 a.m. The tentative ruling is to stay all proceedings and order mandatory mediation.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented.

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CONT... **Robert Panosian**

Chapter 7

See generally Stern v. Marshall, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 3/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/26/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 4/23/19

Continued status conference: 5/7/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order:N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

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CONT...

Robert Panosian

Trial commencement: N/A

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Robert Panosian

Represented By
Christopher S Reyes

Defendant(s):

Robert Panosian

Pro Se

Plaintiff(s):

Los Angeles Federal Credit Union

Represented By
Alana B Anaya

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
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1:00 PM

2:19-14137 Zeta Graff

Chapter 11

#1.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Budget motion; Bankruptcy Schedule I

Debtor's status report (dkt. 19) anticipates that a budget motion will have been filed already, but as of the preparation of this tentative ruling none has been filed. Debtor has also ignored the instructions on Bankruptcy Schedule I, line 8a (dkt. 20 at PDF p.8) to "Attach a statement for each ... business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income" from the business. The tentative ruling is to set a deadline of 5/10/19 for filing and serving the budget motion and filing an amended Schedule I.

(b) UST compliance

Is Debtor now in compliance with the requirements of the Office of the United States Trustee ("UST")?

(2) Deadlines/dates. This case was filed on 4/11/19.

(a) Bar date: 7/23/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/4/19 at 1:00 p.m., *brief* status report due 5/28/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT...

Zeta Graff

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

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1:00 PM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#2.00 Hrg re: U.S. Trustee's Motion to Dismiss or Convert Case

Docket 76

***** VACATED *** REASON: Continued to 5/7/19 @ 2:00 p.m. per stipulation, dkt. 88, and order thereon. - See #1 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:18-12716 Peta Elizabeth Gorshel

Chapter 11

#3.00 Hrg re: U.S. Trustee's Motion to Dismiss or Convert Case

Docket 96

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 3.1, 5/7/19 at 1:00 p.m.).

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
Michael Jay Berger

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1:00 PM

2:18-12716 Peta Elizabeth Gorshel

Chapter 11

#3.10 Cont'd Status Conference re: Chapter 11 Case
fr. 4/10/18, 5/1/18, 5/22/18, 07/17/18, 9/18/18,
12/11/18; 04/30/19

Docket 9

Tentative Ruling:

Tentative Ruling for 5/7/19:

Appearances required.

(1) Current issues

(a) UST's motion to dismiss (or convert) (dkt. 96)

Both the motion of the United States Trustee ("UST") and Debtor's response (dkt. 109) favor dismissal. The IRS' response (dkt. 108) favors conversion to chapter 7, and raises the possibility that Debtor's home has enough value that a chapter 7 trustee would be able to sell Debtor's residence and pay all secured claims and costs of administration.

The tentative ruling is to convert this case to chapter 7 - not exactly for the reasons advanced by the IRS, but for the following reasons. The starting point is that the statute directs this Court to decide as between dismissal and conversion based on the "best interests of creditors and the estate." 11 U.S.C. 1112(b)(1).

(i) In favor of dismissal

Debtor is correct in arguing (dkt. 109) that the IRS offers no admissible evidence of any equity that could be used to pay costs of chapter 7 administration. The IRS asserts:

While the Zillow, Redfin, and Realtor valuations do not prove with certainty the value of the Property, *see In re DeBilio*, 2014 WL 4476585, at *7 (9th Cir. BAP Sept. 11, 2014), the consistently higher value indicates that the actual value of the the real property is likely higher than what was stated in the Debtor's Schedules.

[Dkt. 108, p.2:24-27]

But the BAP held:

Zillow, however, does not constitute credible evidence of value. *See In re Phillips*, 491 B.R.

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CONT...

Peta Elizabeth Gorshel

Chapter 11

255, 260 n.7 (Bankr. D. Nev. 2013) (zillow website is inherently unreliable and is inadmissible as evidence). [*DeBilio* (slip opinion, p.16:13-16) (emphasis added)]

In contrast, Debtor as the owner of the property is competent to opine as to value, and she has done so in her sworn bankruptcy schedules. Therefore, on the present record, there is no equity in the property.

Moreover, even if there were any equity value, debtor might be able to claim a homestead exemption in that equity. True, she has not done so in her filed Bankruptcy Schedule C (dkt. 16 at PDF pp. 26-27), but she appears to be able to amend her exemptions under Rule 1009(a). That makes it even less likely that there would be any net equity in the property.

(ii) In favor of conversion

Even under Debtor's valuation the IRS' lien appears to have a secured claim (in fact, it appears to be fully secured). Therefore, under 11 U.S.C. 507(a)(2) and 724(b)(2), it will be possible to pay costs of administration out of the IRS' lien (and perhaps a distribution to unsecured creditors), even if the property is not as valuable as the IRS supposes it might be.

Alternatively, supposing for the sake of discussion that section 724(b)(2) were inapplicable for some reason, a lack of equity in the property would not necessarily mean that dismissal is better than conversion. Dismissal might let every creditor (secured and unsecured) pursue its own interests, but that can lead to inefficient and inequitable competition among creditors.

In contrast, conversion appears to be better if any secured creditor indicates a willingness to agree to a voluntary carve-out to pay costs of administration (and perhaps something for other creditors, which at least some courts require - Judge Bason has not ruled on that issue). In other words, if there is a voluntary carve-out then a sale could occur in chapter 7, and that would appear to be in the best interests of creditors and the estate. This Court takes judicial notice that the IRS has agree to a voluntary carve-out in favor of unsecured creditors in at least one other case before Judge Bason.

Debtor notes that only secured creditors have filed proofs of claim, but that is not persuasive. A substantial number and dollar amount of unsecured claims are listed on Debtor's bankruptcy schedules and would have the opportunity to file proofs of claim after conversion. See dkt. 16, at PDF pp. 32-39, and see 11 U.S.C. 1111(a) and Rule 1019(2)(A) (Fed. R. Bankr. P.).

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CONT...

Peta Elizabeth Gorshel

Chapter 11

Of course, this alternative reasoning depends on a secured creditor's willingness to agree to a carve-out that is acceptable to a chapter 7 trustee (and acceptable to this Court, if approval of this Court is required). But on this record it appears that conversion would involve few costs (a chapter 7 trustee could quickly and cheaply estimate the value of the property and/or negotiate a carve-out) and the potential up-side appears to outweigh those few costs.

For all of these reasons, conversion appears to be in the best interest of creditors.

Proposed order: The IRS (if it remains the prevailing party after any oral argument) is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement: N/A

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances are not required on 4/30/19.

(1) Current issues

(a) Second Interim Fee Application - Berger (dkt. 100)

Grant in the amount of \$7,407.50 in fees and \$200.05 in expenses, for a total of \$7,607.55.

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(b) Fee Application - Liu (dkt. 102)

Grant in the amount of \$3,000 in fees, less the \$2,000 retainer, for net fees owed of \$1,937.50.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement: 4/1/19 deadline to file (NOT SERVE - except on the U.S. Trustee)

(c) Continued status conference: 5/7/19 at 1:00 p.m., to be concurrent with the United States Trustee's motion to dismiss or convert (dkt. 96). No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Continue to the date and time set forth below. Appearances are not required on 12/11/18.

(1) Current issues

(a) The Court has no issues to raise *sua sponte*.

(2) Dates/Deadlines.

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement*: file by 4/1/19 (see dkt. 86) using the

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forms required by Judge Bason.

(c) Continued status conference: 4/30/19 at 1:00 p.m. *Brief* status report due 4/23/19.

*Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Continue to the date and time set forth below. Appearances are not required on 9/18/18.

(1) Current issues.

(a) Motion for relief from automatic stay (dkt. 41). Deny without prejudice, for the reasons stated in the debtor's response (dkt. 48) and based on the representations in the debtor's status report (dkt. 60). *Proposed order*: The debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Dates/Deadlines.

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement*: file by 12/4/18 (see dkt. 55, p.4:25) using the forms required by Judge Bason.

(c) Continued status conference: 12/11/18 at 1:00 p.m. *Brief* status report due 12/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

Continue to the date and time set forth below. Appearances are not required on 7/17/18.

(1) Current issues. This Court has reviewed debtor's status report (dkt. 55) and other relevant pleadings. This Court does not have any issues to raise *sua sponte*.

(2) Dates/Deadlines.

(a) Bar date: 6/15/18 (timely served, dkt. 26, 32)

(b) Plan/Disclosure Statement*: TBD. This Court is aware that debtor has requested a somewhat distant deadline (dkt. 55, p. 4). This Court may or may not be persuaded to grant that deadline at the continued status conference.

(c) Continued status conference: 9/18/18 at 1:00 p.m. *Brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/22/18:

Appearances are not required on 5/22/18.

(1) Current issues.

(a) This court does not have any issues to raise *sua sponte*.

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- (2) Deadlines/dates. This case was filed on 3/13/18.
- (a) Bar date: 6/15/18 (timely served, dkt. 26, 32).
 - (b) Plan/Disclosure Statement*: This court will discuss setting a deadline for the filing of a draft plan/disclosure statement at the next status conference.
 - (c) Continued status conference: 7/17/18 at 1:00 p.m. *Brief* status report due 7/3/18.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/1/18:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

- (1) Current issues.
- (a) Budget Motion (dkt. 21). This Court has reviewed Debtor's Supplemental Declaration in Support of the Budget Motion (dkt. 34). Although that declaration addresses many of the concerns raised by this Court and by Strategic Acquisitions, Inc. (dkt. 23), the debtor has failed to provide historical monthly profit and loss statements from the period from 1/1/18 through 3/31/18 as required by this Court's order (dkt. 27, para. 5.a.). The parties should be prepared to address what remedy this Court should impose.
- (2) Deadlines/dates. This case was filed on 3/13/18.
- (a) Bar date: 6/15/18 (timely served, dkt. 26, 32).
 - (b) Plan/Disclosure Statement*: In view of the debtor's declaration

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about her current and future projected income, the tentative ruling is to vacate the prior deadline to file these documents, and set a new deadline at a future status conference, with the caveat that if the debtor fails to show sufficient diligence in obtaining employment and/or if the estate suffers any substantial losses then this Court might have to dismiss or convert this case.

(c) Continued status conference: 6/12/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances required by counsel for the debtor and by the debtor herself.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 19), the response (dkt. 23) filed by creditor Strategic Acquisitions, Inc. ("Strategic"), and the other filed documents and records in this case.

(a) Prior failed case. The debtor's husband's prior case (no. 17-bk-19071-NB) was a chapter 13 case that was dismissed on 10/13/17 with a 180-day bar to re-filing for failure to make plan payments or appear at the meeting of creditors (11 U.S.C. 341(a)).

(b) Budget Motion (dkt. 21). First, as Strategic points out, the debtor's bankruptcy Schedule I, line 8a, lists \$6,220/mo. of net income from "rental property and from operating a business, profession, or farm" but fails to follow the instructions to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total net monthly income." In addition, as Strategic points out, the debtor may be failing to account for the payment of real property taxes and perhaps also

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income taxes, and therefore it is not at all clear how the debtor will be able to fund any plan of reorganization.

The tentative ruling is to set a **deadline of 4/17/18** for the debtor to file declaration(s) (i) attaching the statement(s) required by the line 8a instructions, (ii) providing complete explanations of any other sources of income (e.g., how long does the debtor anticipate continuing to receive disability payments? does the debtor anticipate returning to employment, and if so, when?), (iii) explaining whether the debtor is accounting for real estate taxes and income taxes, (iv) explaining how the debtor anticipates generating sufficient income to fund a plan of reorganization, and (v) attaching historical monthly accounts for the period of one year prepetition through 3/31/18.

Second, bankruptcy Schedule J (attached to the budget motion), lines 17c and 17d, list payments to Strategic of \$1,750/mo. and to Ropers Majeski of \$500/mo. The tentative ruling is to treat those payments as adequate protection payments on account of claims that appear to be secured claims, conditioned on return of such payments in the event that such security interests or claims are avoided or otherwise disallowed.

Third, notice of the motion and the deadline for objections is inadequate. The proof of service fails to attach a service list of creditors, and the debtor checked the box directing creditors to file any oppositions within 14 days' from the date of the proof of service (3/27/18), which would be the date of this hearing. Nevertheless, despite the lack of adequate service or notice, the tentative ruling is that on the present record it appears that it would be more prejudicial to creditors to prevent the debtors from making their proposed expenditures than to permit those expenditures, so the tentative ruling is to grant the budget motion on an interim basis, subject to any objections at a continued hearing simultaneous with the continued status conference date set forth below. This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006, Fed. R. Bankr. P.), but that date is conditioned upon the debtor serving the motion on the entire creditor matrix **the day after the current hearing date**.

(2) Deadlines/dates. This case was filed on 3/13/18.

(a) Bar date: 6/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: File by 6/29/18 using the forms

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required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 19, p. 5), but this Court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

(c) Continued status conference: 5/1/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
Michael Jay Berger

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2:18-22059 JDS Hospitality Group LLC

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#4.00 Hrg re: Bakers 26, LLC's Motion to Dismiss
Chapter 11 case Pursuant to 11 USC Section 1112(b)

Docket 117

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 4.1,
5/7/19 at 1:00 p.m.)

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang
David Samuel Shevitz

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#4.10 Cont'd Status Conference re: Chapter 11 Case
fr. 10/17/18, 10/23/18, 11/27/18, 01/08/19, 2/5/19,
03/05/19, 4/9/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/7/19:

Appearances required.

(1) Current issues

(a) Motion of Baker 26, LLC ("Baker") to dismiss case (the "MTD," dkt. 117-131), Debtor's opposition (dkt. 138), and Baker's reply (dkt. 152)

Dismiss this case, without a bar. Under 11 U.S.C. 1112(b) this Court "shall" dismiss (or convert) this case for cause, with only limited exceptions. There does not appear to be any argument that conversion is practical, so the question is whether to dismiss.

(i) Insurance

One type of "cause" to dismiss is "failure to maintain appropriate insurance that poses a risk to the estate or to the public." 11 U.S.C. 1112(b) (4)(C). The MTD points out that Debtor's insurance is expiring very soon, and that there is no evidence of Debtor's financial ability to renew its insurance, or an insurer's willingness to do so. In response, Debtor asserts only that it currently has insurance - which is expiring on 5/25/19. See dkt. 138, at PDF p.17, para.27, and Ex.4 at PDF p.33. That is insufficient.

Debtor asserts (dkt. 138, at PDF p.17, para.28) that it is "finalizing" negotiations with prospective purchasers and intends to bring both a motion to sell the hotel property and an application to employ its real estate broker by the time of this hearing on the MTD. Theoretically, a pending sale might be one way of taking care of the insurance issue, because it might be grounds for this Court to find and specifically identify "unusual circumstances" establishing that dismissing this case is not in the best interests of creditors and the estate, if Debtor can establish "a reasonable likelihood that a plan will be confirmed ... within a reasonable period of time" and if Debtor establishes "reasonable justification" for the apparent failure to arrange for future

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insurance and establishes that insurance will be obtained "within a reasonable period of time fixed by the court." 11 U.S.C. 1112(b)(2). Presumably, the method of curing the lack of insurance from 5/25/19 forward would be that the purchaser would pay for that insurance; and presumably the proposed "plan" would be essentially to provide for distributing the proceeds of a sale under 11 U.S.C. 363.

The main problem with all of this is that Debtor is out of time: no application to employ any broker has been filed (let alone approved); and no 363 sale motion has been filed (let alone granted). That application and sale motion cannot reasonably be expected to be filed, served, heard, and granted, and the sale itself cannot be expected to close, all in the next two weeks and three days (before the existing insurance expires on 5/25/19).

Conceivably, Debtor's principal, Ms. Rhonda Chung, might be willing and able to fund the insurance (using funds from her 401(k) retirement account, or some other source, as she has done with some other expenses in the past). But Debtor has not suggested that any such funding is forthcoming; Debtor's principal apparently has not lived up to her commitment to pay real estate taxes (see below) so any mere promise to pay insurance would be inadequate on the present record; and in any event Debtor has not provided any evidence that an insurer is ready, willing, and able to extend future insurance.

For all of these reasons, it appears that this Court has no choice. Congress has directed that this Court "shall" dismiss this case due to "failure to maintain" appropriate insurance. 11 U.S.C. 1112(b)(4)(C).

(ii) Taxes, adequate protection payments, losses, and management

Other types of cause for dismissal include failure to pay postpetition taxes, "gross mismanagement," failure to comply with an order of the court, or "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(I), (A), (B) & (E). The MTD alleges that Debtor has failed to pay postpetition taxes (see *dkt. 131, p.3, para.7*) and Debtor has not contested that issue (although, as noted above, Debtor's principal had promised to fund tax payments - see tentative ruling for 11/27/18, part "(1)(a)," reproduced below).

The MTD also alleges that Debtor has failed to pay several required "adequate protection" payments to Baker (or its predecessor in interest). See *dkt. 131, pp. 4:27-5:16*. Again, Debtor has not contested that issue.

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As for "gross mismanagement" or "substantial or continuing loss" or "diminution," this Court previously has expressed concerns (both at hearings and in the tentative ruling for 2/5/19, part "(1)(a)," reproduced below). The MTD alleges (dkt. 131, p.4:1-21) that Debtor has lost over \$44,000 since this case was filed on 10/14/18, despite approximately \$41,000 in cash infusions by Debtor's principal. Again, Debtor has not contested this issue.

True, Debtor has shown a modest amount of improvement recently. In addition, this Court is not persuaded that a sale of property can never be a "rehabilitation" - to the contrary, Debtor alleges that it has engaged in both physical rehabilitation (repairing the premises, installing safety equipment, etc.) and management rehabilitation (terminating management that was embezzling, restoring online booking services, etc.), so the most significant issues appear to be (A) whether there is a "reasonable" likelihood that taxes will be paid and that the (modest) recent progress will offset the prior losses, and (B) whether there is sufficient "justification" (under 11 U.S.C. 1112(b)(2)(B)(i)) for prior failure to pay taxes, mismanagement, losses, and failure to comply with the budget approved by this Court's orders.

On the present record, the tentative ruling is that Debtor has not met its burden to provide evidence of those things. Debtor offers no justification for its principal not living up to her commitment to pay real estate taxes or for postpetition mismanagement by current management; and as noted above there is no section 363 sale motion on file, pursuant to which a purchaser might cure that non-payment or, perhaps, cure other issues.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

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appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Continue as set forth below. Appearances are not required on 4/9/19.

(1) Current issues

This Court has reviewed Debtor's latest filed documents, including its Monthly Operating Report (dkt. 95) and Status Report (dkt. 101). This Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 5/21/19 at 1:00 p.m., *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (Decl. dkt. 84; MOR #4, Jan. 2018, dkt. 86; Decl. dkt. 87; Status Report, dkt. 92, Ex.1)

The parties should be prepared to address whether Debtor's efforts to restore online travel service arrangements were adequate.

(b) Cash infusions (Decl. dkt. 84)

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This Court has reviewed the supplemental declaration of Rhonda Chung and is satisfied that this Court's concerns from the 2/5/19 hearing re cash infusions have been adequately addressed.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/9/19 at 1:00 p.m., *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #3, Dec. 2018, dkt. 71; Decl. dkt. 75)

Debtor's recently reported finances are dismal, as noted in the tentative ruling for 1/8/19. It appears that Debtor's occupancy rate is less than half of what was projected (which is itself less than half of available rooms), and that Debtor is failing to pay some franchise fees, utilities, housekeeping expenses, and other items.

Debtor blames outages in its online booking services, but as noted in the limited opposition to extending exclusivity (dkt. 78) filed by First Choice Bank, Debtor's behavior in the face of problems with online booking is puzzling. Why did Debtor not proactively contact the online booking agencies around the time it filed its bankruptcy petition? Why did Debtor not monitor its

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own finances sufficiently to realize that those agencies had not been paid? Debtor asserts that it was given no advance notice, but that seems highly unusual, so where is evidence of the telephone calls, emails, and letters immediately reacting, objecting to being cut off with no prior notice, and offering immediate payment of any missed bills? This Court takes judicial notice that the booking agencies are large enough to be familiar names, and presumably they have experienced hotel bankruptcies before, so what reasons did they give for their alleged lack of notice and over-reaction? As the bank suggests, the outages in booking were long enough that one would expect Debtor to have made repeated and considerable efforts to resolve the situation, possibly including meetings in person, but there is no evidence of that.

All of the foregoing suggests "gross mismanagement" of the estate, which is one possible basis to dismiss or convert this case. 11 U.S.C. 1112(b)(4)(B). The facts recited above also appear to constitute a "substantial" loss or diminution of the estate, and calls into question whether there is a "reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(A). In addition, these facts call into question whether Debtor will be able to meet the feasibility test for any proposed plan. 11 U.S.C. 1129(a)(11).

The parties are directed to address whether this case should be dismissed or converted.

(b) Alleged infusions

There have been promises during this case that cash infusions would be made by Debtor's principal, Rhonda Chung. The Status Report (dkt. 79, p.4:8-21) alludes to some, but the precise dollars amounts are generally unclear, as are the dates, and precisely how those dollars been used. The tentative ruling is to set a deadline of 2/12/19 (if this case is not dismissed) for Ms. Chung to file a declaration, with attached evidence, addressing each of these things.

(c) Employment of bankruptcy counsel (dkt. 47, 51, 56, 67, 68, 71)

Have the objections of the United States Trustee (dkt. 51) been resolved?

(c) Motion to Extend Exclusivity Periods (dkt. 73)

Debtor is directed to addressing the issues raised by First Choice Bank's Opposition (dkt. 78).

(2) Deadlines/dates. This case was filed on 10/14/18.

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(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Debtor's status report (dkt. 72) attempts to put the best face on a dismal record of recent operations. Should this Court set deadlines to sell the estate's property/business, or impose other performance metrics and establish consequences for failure to satisfy those metrics?

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:
Appearances required.

(1) Current issues

(a) Cash collateral motion (dkt. 4). This Court has reviewed the supplemental declarations of Kenneth Chung and Rhonda Chung (dkt. 38). Those declarations provide that in the event Debtor lacks the funds necessary to make the required property tax payments, Rhonda Chung will "personally pay any short fall [o]f the Debtor to pay these taxes or, any portion of those taxes, if any, that has not otherwise been approved by the Court as an authorized Cash Collateral expense." (Rhonda Chung decl, para. 7). Would these funds be a loan or a gift? Is Rhonda Chung financially able to provide such a sum?

(b) Creditor First Choice Bank reporting requests: In its opposition to the cash collatera motion, First Choice Bank requests that Debtor be required to provide additional reporting to insure cash collateral is not misued (dkt. 58). Does Debtor object to any of these recommendations? If so, on what grounds?

(c) Order on cash collateral. Debtor is directed to lodge a proposed final order approving the use of cash collateral, incorporating the terms of the interim order plus any additional requirements as noted above, via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Utility motion. Debtor's status report (dkt. 49) states that this motion will be withdraw, either orally or in writing. Debtor should file a written withdrawal, so that the docket is clear.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/15/19 at 1:00 p.m., with a brief status report due 1/8/19.

*Warning: special procedures apply (see order setting initial status

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Tentative Ruling for 10/23/18:
Appearances required.

(1) Current issues

(a) Cash collateral motion (dkt.4). Subject to any objections at the hearing, the tentative ruling is to authorize the use of cash collateral to a limited extent, on a further interim basis, with a final hearing at the same time as the continued status conference (see below). What specific use of cash is authorized will depend on any supplement filed prior to the hearing and how the debtor and other parties in interest address the following issues: (i) payment of employment taxes and other withholdings, (ii) payment of income taxes, (iii) payment of sales taxes on room rentals, as well as on food, beverages, and other taxable items, and (iv) adequacy of cash flow, both actual and projected.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., with a status report on the local form due 11/13/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/17/18:
Appearances required.

(1) Current issues

(a) Payroll motion (dkt. 5). As noted in this Court's order setting this hearing (dkt. 10), this Court is concerned about whether this is a self-created emergency. In addition, the parties should be prepared to address the jobs of each person who is proposed to be paid (dkt. 7, Ex.6), whether any of them are "insiders" (11 U.S.C. 101(31)), and how they will be paid if the checks do not clear and other sources of revenue do not come through. Subject to adequately addressing those issues, and (1) confirming notice per this Court's order shortening time (dkt. 10), (2) addressing this Court's concerns in that order, and (3) any objections at the hearing, the tentative ruling is to grant this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt.4). The tentative ruling is to grant this motion, subject to the caveats set forth in the tentative ruling for calendar no. 2 (10/17/18 at 9:00 a.m.).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., *brief* status report due 11/20/18.

**Warning:* special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang

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2:14-11423 Rolando Verdecia and Ivonne Verdecia

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#5.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or
Convert Case
fr. 04/02/19

Docket 231

***** VACATED *** REASON: Voluntary Dismissal of Motion Filed
04/15/19 (Dkt. 237)**

Tentative Ruling:

Party Information

Debtor(s):

Rolando Verdecia

Represented By
Michael J Jaurigue
Nam H. Le
Elaine Le

Joint Debtor(s):

Ivonne Verdecia

Represented By
Michael J Jaurigue
Nam H. Le
Elaine Le

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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2:16-15136 Glynder Lucas Striggs

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#6.00 Cont'd Status Conference re: Post Confirmation
fr. 5/31/16, 7/19/16, 9/13/16, 11/8/16, 1/10/17, 02/28/17,
4/11/17, 5/23/17, 6/20/17, 8/8/17, 8/15/17, 11/14/17,
02/13/18, 7/10/18, 9/18/18, 12/11/18

Docket 6

Tentative Ruling:

Tentative Ruling for 5/7/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues. This Court has reviewed the docket. The parties should be prepared to address the status of the case and when it will be ready for a final decree.

(2) Deadlines/dates. Continue to 7/30/19 at 1:00 p.m. (no written status report required; and will go off calendar if a final decree has been issued before that time).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18 (same as for 9/18/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The docket does not reflect any activity. What is the status of this case, and

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when will it be ready for a final decree?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 7/10/18:

Continue as set forth below. Appearances are not required on 7/10/18.

(1) Current Issues. This Court has reviewed debtor's status report (dkt. 154, 156) and other relevant pleadings in this case. This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. Continue to 9/18/18 at 1:00 p.m. (no written status report required; and will go off calendar if a final decree has been issued before that time).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 2/13/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties should be prepared to address any issues appropriate for resolution at this post-confirmation status conference. The tentative ruling is to set a continued status conference for 7/10/18 at 1:00 p.m.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

Continue to 2/13/18 at 1:00 p.m. in view of the debtor's post-confirmation status report (dkt. 142). Appearances are not required on 11/14/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/15/17:

Appearances required. The debtor's counsel should be prepared to address the issues set forth below.

Proposed order: If this court is persuaded to adopt this tentative ruling, then counsel for the debtor is directed to serve and lodge proposed orders (a) approving the disclosure statement (dkt. 101) on a final basis and (b) confirming the plan (dkt. 102), all as amended by the stipulation with class 2A (dkt. 127, 128). Those proposed orders must be lodged via LOU within 7 days after the hearing date.

(1) Ballot Summary. The debtor's ballot summary (dkt. 131) appears to be inaccurate and internally inconsistent. Although the ballots and stipulation attached to the ballot summary show acceptance by 100% in both dollar amount and number of the claims actually voted or deemed to have been voted in classes 2A, 2B and 4A, and no vote by Class 2C, the ballot summary makes assertions that are not consistent with those ballots, namely:

(a) Cramdown: The ballot summary asserts that the debtor is not requesting cramdown (dkt. 131, item 3), even though the lack of an affirmative vote in class 2C means that the debtor does not satisfy 11 U.S.C.

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1129(a)(8) and therefore must seek cramdown under 11 U.S.C. 1129(b);

(b) Accepting classes: The ballot summary asserts that only class 4A has voted to accept the plan (dkt. 131, item 6), even though classes 2A and 2B have also accepted the plan; and

(c) Page 2 of the Ballot Summary: The chart on page 2 of the ballot summary (dkt. 131, p.2, top line of chart) fails to show that Class 2A has accepted the plan by 100% in number of claims deemed to have been voted (not just 100% in amount). In addition, it would have been helpful if the ballot summary's "Comments" following that chart had explained that (i) Portfolio Recovery Associates is Class 2C (even though it is listed as LA County Tax Collector in the Plan), (ii) U.S. Bank is Class 2A (even though it is listed as Wells Fargo in the Plan), and (iii) Class 2A is deemed to have voted in favor of the plan under its court-approved stipulation, even though it did not actually cast a ballot. (If any of the foregoing is incorrect then counsel for the debtor must correct those issues at the hearing.)

(2) Status report

The debtor's status report (dkt. 130) misleadingly asserts that this court's order (dkt. 106) previously approved the disclosure statement (dkt. 101), whereas in fact this court only granted preliminary approval for purposes of this combined hearing on whether to approve the disclosure statement (dkt. 101) and confirm the plan (dkt. 102).

(3) Confirmation. Notwithstanding the foregoing, it appears that the debtor's disclosure statement (dkt. 101) should be approved, and that the chapter 11 plan (dkt. 102), as amended by the debtor's stipulation with the holder of the class 2A claim (dkt. 127, 128), has met the requirements for confirmation under 11 U.S.C. 1129(a) & (b).

(4) Correction. This court notes that the tentative ruling for 6/20/17 (reproduced below) was in error in asserting that "[at] the status conference on 5/23/17 this court set a deadline of 6/6/17 to file an amended plan and disclosure statement." In fact, this court was persuaded at that status conference not to impose that deadline.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for

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disposition at this hearing.

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Tentative Ruling for 6/20/17:

Continue to 8/8/17 at 1:00 p.m. (without the need for any written status report), but impose sanctions of \$200 on counsel for the debtor, for the reasons set forth below. Appearances are not required on 6/20/17.

At the status conference on 5/23/17 this court set a deadline of 6/6/17 to file an amended plan and disclosure statement. On 6/15/17, after this court had already prepared a tentative ruling for this status conference, counsel for the debtor filed a stipulation (dkt. 117) and lodged a proposed order for yet another continuance of the confirmation hearing. At no point did counsel telephone chambers to suggest that counsel expected or was attempting to arrange for such a continuance. Moreover, as set forth in the tentative rulings reproduced below, this case has a long history of missed deadlines, last minute filings, and deficient documents.

This court recognizes that to a large extent counsel cannot control delays by a debtor and debtor in possession, and not infrequently a debtor is simply incapable of meeting all of the debtor's obligations. Nevertheless, this court has noted that counsel of record in this case has a pattern, in this and other cases (*e.g.*, *In re Barragan*, 2:15-bk-29156-NB), of filing late and inadequate documents, and that pattern is not matched by the vast majority of other counsel who appear before this court. All of that strongly suggests that counsel bears some responsibility for those deficiencies, and that imposes substantial burdens on this court, the U.S. Trustee, and any other parties in interest who may be monitoring or involved in such bankruptcy cases. The tentative ruling is that this warrants sanctions under this court's inherent powers and 11 U.S.C. 105. Counsel is also cautioned that this court anticipates issuing similar or increased sanctions if this pattern continues in other cases in future.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/23/17:

Appearances required by counsel for the debtor, but telephonic appearances

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are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The ballot summary was due 5/16/17 but was not filed until 5/22/17 at 4:12 p.m. In addition, it is internally inconsistent. What remedies are appropriate?

The plan (dkt. 102) has not been accepted by any class. This is the debtor's second bankruptcy case, and it has been pending for over a year. The debtor's lack of progress for that long a period of time suggests a willful delay. Should this court dismiss or convert this case? Should this court impose a bar against being a debtor in bankruptcy for the third time in a row?

(2) Deadlines/dates. This case was filed on 4/20/16. If this case is not dismissed or converted, the tentative ruling is to hold a continued status conference on 6/20/17 at 1:00 p.m. with a deadline of 6/6/17 to file (but NOT serve) yet another amended plan and disclosure statement.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/23/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/11/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) UST compliance and adequate protection payments. What is the status?

(b) Plan (dkt. 101) and Disclosure Statement (dkt. 102). 4/14/17 deadline to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the

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same time as the continued status conference.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: See above.

(c) Continued status conference: 5/23/17 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 2/28/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) U.S. Trustee notice of non-compliance. Has the debtor cured the reporting delinquency noted by the U.S. Trustee regarding lack of insurance (dkt. 94)?

(b) Adequate protection payments. At the hearing on 1/10/17 counsel for the debtor assured this court that the debtor had cured the postpetition delinquency in adequate protection payments. But the monthly operating report for January 2017 (dkt. 95, filed 2/7/17, at p.4) continues to list 4 missed payments for a total of \$6,972 delinquency. What was the basis for counsel's misrepresentation to this court? Should this court require counsel and the debtor to testify on that issue, and on the prospects for future income, before this court can find that the plan is feasible (11 U.S.C. 1129(a)(11))? Should this misrepresentation have any other consequences?

(c) Plan (dkt. 82) and Disclosure Statement (dkt. 81). The debtor's ballot summary was due to be filed no later than 2/21/17 (dkt. 89). Instead the debtor's counsel has filed a declaration (dkt. 96) asserting that a ballot in favor of the plan has been received by class "6b," even though no such class is listed in the plan (see dkt. 82, Ex.A), and requesting more time to receive ballots from classes 2a and 2b, even though the deadline for ballots has

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passed. The parties should be prepared to address how best to proceed in these circumstances.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement (dkt. 82, 81): See above.

(c) Continued status conference: 4/11/17 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/10/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Payments to secured creditor Wells Fargo. The debtor's November 2016 MOR reflects that the debtor has **not** made 4 monthly payments to secured creditor Wells Fargo. See dkt. 84, PDF p. 7. Is that accurate, or did the debtor intend to state that those payments were made?

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement (dkt. 82, 81): The tentative ruling is to set the following deadlines: 1/17/17 to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and to lodge Judge Bason's form of order authorizing service of the relevant documents and setting deadlines; and 2/28/17 at 1:00 p.m. for the combined hearing on approval of the Disclosure Statement and

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confirmation of the Plan (with the court to set typical deadlines for objections etc.).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 2/28/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/8/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Amended Chapter 11 Plan and Disclosure Statement (dkt. 74, 75).

There are issues with these documents which this Bankruptcy Court will review orally at the hearing.

(b) Monthly operating reports. The debtor's court approved budget (dkt. 19) and the budget attached to her amended chapter 11 disclosure statement (dkt. 74, PDF p. 13) show various typical monthly expenses such as transportation costs, utilities, and food. The expenses included in her budgets submitted to this court are either not reflected in her MORs for August and September 2016 (dkt. 65 and 73, respectively) or are reflected, but in much smaller amounts than budgeted. Is the debtor reporting all of her monthly expenses in her MORs? If not, why not?

Additionally, the MORs appear to reflect that the debtor is receiving less than her budgeted monthly income (\$1,800/mo.) from her job as a real estate professional. In August 2016, the debtor reported receipts of \$970.01;

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in September 2016, receipts of \$1,000.

Based on the reporting in the debtor's two most recent MORs, this court is concerned that the debtor may not have sufficient disposable income with which to fund her proposed chapter 11 plan.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: Deadline of 12/6/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 1/10/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/13/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Chapter 11 Plan and Disclosure Statement (dkt. 59, 58). There are numerous issues with these documents, which this Bankruptcy Court will review orally at the hearing.

(b) Orders on budget and cash collateral motions. On July 19, 2016, this court held continued hearings on the debtor's motion for use of cash collateral (dkt. 18) and budget motion (dkt. 19). The motions were granted on a final basis, and the court's adopted tentative ruling directed the debtor to lodge proposed orders on those motions within seven days of the hearing date. This court has reviewed the case docket and its pending lodged orders, and it appears no such orders have been lodged.

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- (2) Deadlines/dates. This case was filed on 4/20/16.
- (a) Bar date: 7/29/16 (timely served, dkt. 39)
 - (b) Plan/Disclosure Statement: Deadline of 10/11/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).
 - (c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/19/16:

Appearances are not required on 7/19/16.

(1) Current issues.

(a) Cash collateral motion (dkt. 18). Grant on a final basis, on the same terms set forth in this court's order granting interim use of cash collateral (dkt. 37).

(b) Budget motion (dkt. 19). Grant on a final basis.

The debtor must lodge proposed orders on each of the foregoing motions within seven days.

(2) Deadlines/dates. This case was filed on 4/20/16

(a) Bar date: Bar date: 7/29/16 (timely served, dkt. 39).

(b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for

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such objections are established).

(c) Continued status conference: 9/13/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/31/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 23).

(a) Prior failed case. The debtor's prior case (no. 2:14-bk-14065-NB) was a chapter 13 case that was dismissed because of plan infeasibility due to the objections by Wells Fargo, and claims by the IRS, FTB, and L.A. County Tax Collector.

(b) Debtor's real property

(i) Inconsistent rental income amount. This Court notes that the debtor's amended schedule G reflects a monthly rental of \$2,200 (dkt. 13, p.10), which was originally listed as \$1,500 per month (dkt. 1, p.36). However, the debtor's original schedule I originally listed the debtor's net income from rental property as \$2,400 (dkt. 1, p.39). The debtor's amended schedule I now lists net income from rental property as \$2,200 (dkt. 13, p.12). Although the rental income now appears to be consistent at \$2,200, and schedule G reflects the same lessee, Smark Lyles, is this the correct amount?

(ii) Schedule I. Part 8.a. requires that the debtor attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.

(iii) Motion to Value. The debtor's status report indicates that the debtor intends to file a motion to value the real property. When does the debtor anticipate filing the motion to value?

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(c) UST compliance. The United States Trustee has filed a motion to dismiss or convert (dkt. 24). Although the matter has been set for hearing on 6/21/16, the debtor should be prepared to address more generally, why this case in chapter 11 instead of chapter 13. It appears that the debtor is within the debt limits for chapter 13, and chapter 11 typically is far more expensive, so it seems doubtful that the debtor needs or can afford a chapter 11 case.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 23, p.4) but this Court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

(c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Glynder Lucas Striggs

Represented By
Onyinye N Anyama

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2:18-16732 Motiv8 Investments, LLC

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#7.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 01/15/19, 2/26/19, 03/05/19; 04/02/19

CRESCENT CAPITAL HOLDINGS, LLC
vs
DEBTOR

Docket 78

Tentative Ruling:

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 8, 5/7/19 at 1:00 p.m.).

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference (calendar no. 10, 4/2/19 at 1:00 p.m.)

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference (calendar no. 12, 3/5/19 at 1:00 p.m.)

Tentative Ruling for 2/26/19:

Please see the tentative ruling in the status conference (cal. #10, 2/26/19 at 1:00 p.m.).

Tentative Ruling 1/15/19:

Appearances required. The tentative ruling is either (1) if no evidence of insurance is provided at the hearing, or perhaps within a very short window, to grant immediate relief from the automatic stay, and otherwise (2) to require Debtor to sell the subject property immediately, and set related procedures including a continued hearing on this motion for relief from the automatic stay, all as set forth below.

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Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Background

Movant previously filed a motion (dkt. 8) for relief from the automatic stay in this case. This Court issued an adequate protection order (dkt. 31, the "APO"). The APO provides that the stay will remain in place as long as Debtor makes adequate protection payments, but that the stay will not apply in any future bankruptcy case ("*in rem*" relief).

(2) Alleged cause for relief under 11 U.S.C. 362(d)(1)&(4)

(a) Insurance

Movant asserts that Debtor has failed to provide proof that the property is insured. See dkt. 78, p.3. Debtor's response (dkt. 83) fails to address this issue, as pointed out by Movant's reply (dkt. 85).

At the hearing, Debtor is directed to address whether the property is insured, and to make an offer of proof. This Court may be persuaded to terminate the automatic stay immediately if Debtor fails to provide adequate proof of insurance that complies with the loan documents (e.g., naming Movant as a party entitled to notice and/or as an insured party, if that is what the loan documents require).

(b) Order for relief from the stay in a related case

Movant now seeks relief again, pointing out that since the APO was issued an order granting relief from the automatic stay has been issued in a case filed by Debtor's principal and 100% equity owner, Sergio Moreno Morales. See *In re Morales* (Case No. 2:18-bk-16365-WB), dkt. 31 (issued on 7/3/18) (the "*In Rem Order*"). The In Rem Order grants relief under 11 U.S.C. 362(d)(4) - *i.e.*, relief that is applicable notwithstanding any future bankruptcy case. By definition the In Rem Order is not applicable to this pending bankruptcy case, but Movant apparently believes the issuance of that order should be considered cause under 11 U.S.C. 362(d)(1)&(4) to modify the APO so as to terminate the automatic stay immediately.

This Court is not persuaded. First, as Debtor points, in this case there is no evidence that Debtor has failed to comply with the APO.

Second, the In Rem Order itself recites that there was no opposition to that order. In contrast, in this case Debtor has responded and adequately

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established, long before the In Rem Order was issued, that there were grounds to hold Debtor to a strict APO but not terminate the stay.

To summarize this Court's prior reasoning in issuing the APO, although it is true that Mr. Morales has filed multiple bankruptcy cases and previously arranged an unauthorized transfer of title to the real property from Debtor to himself, (a) title was restored to Debtor on or about 6/1/18 (see dkt. 21, p.4:5-6), (b) Mr. Morales has adequately explained his prior bankruptcy cases and the unauthorized transfer of title, at least for purposes of issuing the APO rather than terminating the automatic stay (see dkt. 21, pp.4:9-5:21, and 7:12-10:22), and (c) creditors would be harmed if the stay were terminated in this case. Not only does this reasoning still apply, but the APO is the law of this case, and Movant has neither briefed the standards for overcoming the law of the case nor established legal or factual grounds for reconsidering the APO.

(3) Alleged grounds for relief under 11 U.S.C. 362(d)(2)

As Debtor argues, Movant must show both (a) a lack of equity in the property and (b) that the property is not necessary for an effective reorganization. Debtor disputes both of these prongs. Ultimately, however, both parties' arguments depend on whether there is equity in the property. If there is, then the property can be sold and net proceeds distributed to creditors. If there is no equity, Debtor has not suggested any reason why the property would be necessary to an effective reorganization.

Any equity in the property is equal to the property's value minus costs of sale and liens or other encumbrances. Debtor questions whether the dollar amount that Movant claims to be owed on its lien takes into consideration the payments made under the APO. That may make a difference of a few thousand dollars. The larger issue is the value of the property.

Movant asserts that the value is \$750,000. See dkt. 78, p.8 & Ex.M, *and* dkt. 85 at PDF pp.11 *et seq.* (Mauch Decl.). Debtor's principal asserts (dkt. 83, pp.9:20-10:2) that Debtor has recently accepted an offer to purchase the property for \$850,000, for which he will seek this Court's approval under 11 U.S.C. 363(b)&(f). Debtor's principal also asserts (*id.*) that he believes the property is actually worth much more - approximately \$915,000 - but that "in the interest of moving Debtor's reorganization along and avoiding Movant's attempts at relief and foreclosure" he "has determined that it is in the best interest of the estate to accept a purchase price of \$850,000.00."

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The tentative ruling is that the best method of determining whether Debtor has an equity in the property (and hence, in the circumstances of this case, whether the property is necessary to an effective reorganization of Debtor's finances) is to move forward with the proposed sale of the property (presumably subject to overbids). As the Supreme Court has stated, generally "the best way to determine value is exposure to a market." *Bank of Am. v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457 (1999).

This Court takes judicial notice that Debtor has filed an application (dkt. 82) to employ a real estate broker. In other words, Debtor appears to be taking steps to proceed with the proposed sale of the property.

Accordingly, the tentative ruling is to set a deadline for Debtor to file and serve its motion to sell the property under 11 U.S.C. 363(b)&(f), and defer any other issues until after this Court determines whether or not to approve the proposed sale. The tentative ruling is that a motion to sell must be filed and served no later than 2/1/19, and self-calendared for hearing on 2/26/19 at 1:00 p.m.

In addition, the tentative ruling is to continue the present motion for relief from the automatic stay to the same time (specially set at 1:00 p.m., rather than the usual time of 10:00 a.m.). In addition, the tentative ruling is to reschedule the upcoming Status Conference in this case from 2/5/19 to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

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Movant(s):

Crescent Capital Holdings, LLC

Represented By
Amy E Martinez

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#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/10/18, 9/18/18, 10/2/18, 11/27/18, 02/05/19,
2/26/19, 03/05/19; 04/02/19

Docket 8

Tentative Ruling:

Tentative Ruling for 5/7/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) General status

Debtor was ordered to file a status report no later than April 30, 2019. As of the preparation of this tentative ruling, no such report has been filed. Should this Court impose sanctions?

Debtor's prior status report (#5, dkt. 128) states that Debtor has no unsecured debt and "will seek refinancing of its assets and/or the sale of properties in order to pay off the entire debt of the Las Flores Property and fund a confirmable Chapter 11 Plan." Dkt. 128, p.2:17-20. This Court previously presumed that Debtor was focused on sales, because refinancings appear to be unrealistic. But now Debtor's principal declares (dkt. 139, p.4, para.4-5) that he is currently in negotiations with potential lenders to refinance two of Debtor's three properties which "will pay" all secured debt against the properties. That appears to be entirely unrealistic.

Debtor has almost no funds: it reports only \$50.01 as of 3/31/19 in its latest Monthly Operating Report ("MOR"). See MOR#10 (dkt. 136), p.1. Apart from that, Debtor has three properties:

(i) Las Flores/Altadena Property. This property is supposed to have been sold for \$850,000. See dkt. 129. That is unlikely to generate any useable proceeds because this \$850,000 is subject to a real estate broker's commission of \$17,000, real estate taxes estimated at over \$18,000, and the claim of Crescent Capital Holdings, LLC ("Crescent") of \$763,832.42 as of the petition date plus alleged postpetition interest for one year at 29.99%. See

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dkt.110, p.4:10-17, dkt. 129, *and* POC 3-1. Although interest above the non-default rate will not be presently distributed to Crescent, nor will it be distributed to Debtor (until after resolution of any claim objection, or other order of this Court).

(ii) Cahuenga Park Property. Debtor values this property at \$900,000. Dkt. 30, p.3. Creditor WRCOF Asset Trust 2017-2 ("Cahuenga Trust") asserts a secured claim of \$811,295.30 as of the petition date, plus postpetition interest for almost a year at 12%. POC 4-1. After the balance of unpaid real estate taxes (POC 5-1 for over \$65,000), this property is unlikely to have any useable equity.

(iii) Date Property. Debtor values this property at \$800,000 (dkt. 30, p.3). No proof of claim has been filed by the holder of the loan debt secured by this property. Debtor estimated this claim at \$532,000 as of the petition date (dkt.15 at PDF p.9), but given Debtor's wildly inaccurate estimation of other claims (\$627,497.80 against the Cahuenga Park Property, and \$695,831.34 against the Los Flores/Altadena Property) this Court is not persuaded that there is any useable equity in this property.

The bottom line is that any expectation of being able to refinance these properties appears, on the present record, to be unrealistic and a waste of time. Apparently any refinancing would be preconditioned on successful prosecution of claim objections, but nearly a year into this case no claim objections have been filed, let alone successfully prosecuted. *See, e.g.*, dkt. 139, p.2:21-22 (Debtor's admits it has no equity in the Cahuenga Park Property based on the "alleged balance" of the secured claim against that property).

Debtor's only plausible path appears to be to sell the properties; pay the undisputed portion of the secured claims; and, if there are legitimate grounds to do so at this late date, prosecute claim objections.

(b) Crescent's Motion for Relief from Stay (dkt. 78)

Has the sale of the Las Flores/Altadena Property closed? If so, what dollar amount is being held in escrow pending determination of Crescent's claim? What deadline should this Court set to file its objection to Crescent's claim?

(b) Cahuenga Trust's Motion for Relief from Stay (dkt. 134)

What dollar amount of monthly adequate protection payments should be required (*see* dkt. 134 & the debtor's late-filed response, dkt. 139)? How can Debtor afford to pay that, given the lack of funds reflected in the latest

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MOR (dkt. 136)? Has Debtor been receiving rents, and are any rents reflected in the MORs?

(c) March MOR (dkt. 136)

This Court is concerned with several items in the March MOR. First, Debtor reports that it did not pay an adequate protection payment of \$5,200 to Triumph Capital. Dkt. 136, p.23. Second, Debtor reports being behind \$975 on UST quarterly fees. *Id.* at PDF p.15. Debtor should be prepared to address these issues.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m., brief status report due 5/28/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Closing of sale (per Order, dkt. 129)

Debtor's status report (dkt. 128) does not state how soon the approved sale will close. When is it scheduled to close?

(b) Motion for Relief from Stay (dkt. 78)

If there is a satisfactory answer to how soon the sale will close, the tentative ruling is to continue this motion to the same time as the continued

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status conference to allow time for the sale to be completed and for Debtor to pay approximately \$645,707.28 to Crescent (\$870,885 payoff demand, per dkt. 128, p.3:14, minus amounts to be held aside pending resolution of forthcoming claim objection: approximately \$200,177.72 in default interest and \$25,000 balloon fee).

(c) Forthcoming claim objection

How soon will this be filed?

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/7/19 at 1:00 p.m., brief status report due 4/30/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required.

(1) Current issues

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

The parties must inform the Court as to the status of the Mr. Vasquez and the bankruptcy estate having separate real estate brokers (or Mr. Vasquez proceeding without a broker); how any brokers will split the 4% commission; and the other issues laid out by the Court in the tentative ruling for the 2/26/19 hearing. The tentative ruling is that the sale cannot be approved until a broker is authorized to represent the estate in the sale.

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale

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Motion," dkt. 102, 105, 114)

(i) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying any attorney fees out of escrow, or paying the real estate brokers until those brokers are actually retained, but overrule those objections to the extent they object to paying costs of sale, including real estate brokers, ahead of Crescent.

(ii) Payment of the portion of Crescent's claim that is not (yet) disputed, and real estate taxes

The parties should be prepared to address whether a new closing statement has been generated to update the amount to be paid to Crescent and to show that real estate taxes will be paid out of escrow.

(iii) "Good faith" finding

If Mr. Vasquez files a declaration that comports with Judge Bason's procedures before the proposed order approving the sale is lodged, then the tentative ruling is to include a good faith finding in that order.

(iv) Approval of sale

Subject to all the foregoing (including that a broker must be retained before the sale can be approved), the tentative ruling is to approve the sale.

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued status conference to allow time for the sale to be completed.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m., brief status report due 4/23/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues (dkt. 111 etc.)

Debtor's proposed sale of certain real estate is intertwined with Debtor's proposed employment of a real estate broker. The tentative ruling is to go forward with the sale hearing, including any overbids, and approve the sale on a provisional basis, with a continued hearing on both the employment application and the sale motion at the same time as the continued status conference (see below).

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

As pointed out by both the United States Trustee ("UST") (dkt. 104) and creditor Crescent Capital Holdings ("Crescent") (dkt.110), Mr. Gallardo is purporting to act as a dual agent, for both the seller (Debtor) and the proposed buyer (subject to overbids), Luis Vasquez. Judge Bason prohibits dual agency, as noted both in his posted Procedures (available at www.cacb.uscourts.gov) and in the order approving the prior real estate broker (dkt. 92) (Mr. Leal).

The tentative ruling is that the lack of dual agency is mandated by the disinterestedness requirements of the Bankruptcy Code and Rules, so it cannot be waived. It is irrelevant that, outside of bankruptcy, it is not uncommon for parties in real estate transactions to accept their agent's lack of disinterestedness. See Reply to Sale Motion (dkt. 115, p.3:10-21).

Accordingly, the tentative ruling is that, if the highest and best bid is that of Mr. Vasquez, then Mr. Vasquez must file a declaration confirming that he has retained his own real estate broker (who must be unaffiliated with Mr. Gallardo), and Mr. Gallardo must represent only Debtor and the bankruptcy estate (not Mr. Vasquez).

In addition, the parties are directed to address whether Mr. Gallardo and/or Debtor's counsel must pay the additional real estate broker out of either (i) a portion of the 4% commission that was to have been paid solely to Mr. Gallardo, or (ii) out of a reduction in Debtor's counsel's attorney fees, so that the bankruptcy estate is not prejudiced by Debtor's non-compliance with the prohibition on dual agency. In other words, should this Court order that

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the total commission to all real estate brokers combined must not exceed 4%?

In addition, there might be other grounds for objecting to Mr. Gallardo's employment, and the time for objections has not yet expired, so the employment cannot be approved yet. The employment application was served on 2/12/19, which means that objections can be filed until 3/1/19 (14 days plus 3 for service via U.S. mail). Until after that date, parties in interest and this Court will not know if, for example, someone were to object to Mr. Gallardo's employment and the proposed sale on the basis that Mr. Gallardo had an undisclosed interest in the sale.

The tentative ruling is that until Mr. Guillardo's employment is approved, the sale must be only provisionally approved. The tentative ruling is that it is appropriate to shorten time (Rule 9006, Fed. R. Bankr. P.) because there is a substantial risk in any bankruptcy sale that if the sale is deferred then prospective purchasers may be unable or unwilling to continue to bid on the property (this Court takes judicial notice that there are considerable costs in holding a proposed sale open, if it is even possible to retain enough funds on hand to close a sale that has been deferred).

For all of the foregoing reasons, the tentative ruling is to set the employment application for hearing at the same time as the continued sale motion and continued status conference (see below).

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Continued hearing

The tentative ruling is to approve the sale (subject to overbids) on a provisional basis, with a continued hearing at the same time as the continued status conference (see below). Between now and that continued hearing, Mr. Vasquez must arrange for a separate real estate broker to represent him (or must proceed without any real estate broker), and must disclaim any reliance on any past representation by Mr. Guillardo and any present representation by him. In addition, the parties can take whatever steps may be appropriate to address the issues set forth below.

(ii) No approval or payment of attorney fees at this time

The tentative ruling is to sustain the objection of the UST (dkt. 104), joined in by Crescent (dkt. 110), that attorney fees must be subject to approval by this Court pursuant to the usual procedures, and that any

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approval of the proposed sale shall not be deemed to be approval of the attorney fees. The tentative ruling is that the proposed attorney fees must be held by Debtor's counsel in a separate account from which funds cannot be released without further order of this Court (a "Blocked Account"). In addition, the tentative ruling is to defer any ruling on Crescent's objection that it should be paid in full before any attorney fees are allowed (dkt. 110, p.5:24-25), because the timing of any distribution of attorney fees can be addressed in connection with allowance or disallowance of those fees.

(iii) Payment of real estate taxes

Crescent objects (dkt. 110, pp.4:24-5:14) that LA County's claim for real estate taxes, estimated to be \$18,456.38, is of a lower priority than Crescent's own claim and therefore should not be paid until Crescent is paid in full. The parties are directed to address (x) whether the real estate taxes are in fact of a lower priority than Crescent's lien, (y) whether any doctrine of marshaling should apply (*i.e.*, whether, even if Crescent's lien is of a higher priority in this property, its claim should be paid from the sale of any other property of the estate so that LA County can be paid out of this sale, or alternatively whether LA County is entitled to a replacement lien on other property so that it is not prejudiced by the fact that this property is being sold prior to other properties), and (z) whether any disputed funds that Debtor proposes to pay either LA County or Crescent must be held in the Blocked Account pending further order of this Court.

In addition, the parties are directed to address how any accruing interest affects the analysis. For example, if funds are held in a Blocked Account pending resolution of the competing claims of LA County and Crescent, will those claims continue to accrue interest at the rate that otherwise would apply (*e.g.*, 18% or 29.99% or some other high rate), or only at the rate that is being paid by the bank at which the Blocked Account is maintained (*e.g.*, 1%)?

The parties also are directed to address what will happen if the funds are distributed to LA County (to stop interest running) but later turn out to be payable to Crescent or the bankruptcy estate. Will LA County be subject to a disgorgement order, consistent with any sovereign immunity analysis?

(iv) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying the real estate brokers until those brokers are actually retained. But the tentative

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ruling is to overrule Crescent's objection to the extent it is seeking to bar paying of any costs of sale, including real estate brokers, until it is paid in full, because those costs are properly chargeable out of Crescent's collateral. See dkt. 110, p.4:5-7; 11 U.S.C. 506(c).

(v) Payment of the portion of Crescent's claim that is not (yet) disputed

Crescent objects that Debtor has had considerable time in which to file any objection to its claim, but has yet to do so, and that the only portion of its claim as to which an objection has been outlined is the default interest. The tentative ruling is that this objection is well taken: not until 2/13/19 did Debtor assert that it would object to Crescent's claim on the additional ground of not fully funding the construction loan. See dkt. 114, p.4, para.7; dkt. 115, p.4:24-26. The tentative ruling is that this last minute suggestion of a possible type of claim objection is insufficient to support Debtor's proposal to withhold all distributions from Crescent.

In other words, the tentative ruling is that Debtor must pay all principal and non-default interest through the date of closing of escrow, plus all other charges included in the proof of claim, without prejudice to Crescent seeking additional charges and default interest, and conversely without prejudice to Debtor objecting at a later time to any charges (other than principal and non-default interest). This means that Debtor would have to pay out of escrow not only principal and non-default interest but also any attorney fees, late fees, or other charges included in the Proof of Claim, and Crescent subsequently could seek additional attorney fees and other charges, but Debtor subsequently could object both to any attorney fees and other charges that have already been distributed and to any new attorney fees and other charges.

The foregoing tentative ruling attempts to balance Debtor's broad rights to object to claims at any time against Debtor's unexplained delay in raising these issues, and against Crescent's rights (consistent with this Court's adequate protection order) to receive distributions without undue delay.

Debtor's latest closing statement (dkt. 114, Ex.A, at PDF p.6) lists the "Loan Payoff" as "To Be Determined" but with an (estimated) amount of \$512,500. Crescent is directed to address at the hearing the approximate dollar amount that will comport with the foregoing tentative ruling.

(vi) "Good faith" finding

The tentative ruling is that any "good faith" finding (11 U.S.C. 363(m))

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will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders. [Judge Bason's posted Procedures, available at www.cacb.uscourts.gov]

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued hearing on the Sale Motion.

(d) Motion for 2004 Examination (the "2004 Motion," dkt. 106)

Grant in part and deny in part as follows. The tentative ruling is to exercise this Court's discretion to limit discovery in keeping with the general principles set forth in Rule 26(b) and 45(d)&(e) (Fed. R. Civ. P.) and Rules 7026, 9016 and 9018 (Fed. R. Bankr. P.). Without limiting the foregoing, this Court is particularly aware that (i) although Debtor has yet to file any actual objection to Crescent's claim, that is clearly contemplated; (ii) Crescent has an interest in maintaining the confidentiality of its loan-analysis methodology; and (iii) Debtor has not shown that it lacks its own records on many of the issues on which it seeks discovery and that the relative burdens and benefits weigh in its favor.

The tentative ruling is that no later than 3/15/19 Crescent must

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produce the documents listed below (the list is excerpted from the 2004 Motion) and that Crescent's person most knowledgeable about the subject matter of those document requests must appear for examination at Debtor's bankruptcy counsel's law offices on 4/5/19 at 10:00 a.m. The document requests/subject matter that this Court tentatively will allow is as follows:

- (1) "ALL COMMUNICATIONS between YOU and the DEBTOR RELATING TO THE \$500,000 LOAN" (dtk. 106, PDF p.23, Section A.6)
- (2) "ALL DOCUMENTS, including COMMUNICATIONS, RELATING TO YOUR assessment of the default interest rate with respect ot he \$500,000 LOAN" (*Id.* at PDF p.24, Section A.11)
- (3) "ALL DOCUMENTS referring or relating to YOUR calculations of damages that YOU would sustain in the event of any default under the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.17)
- (4) "ALL DOCUMENTS referring or relating to YOUR analysis of the appropriate default interest to apply to the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.18)
- (5) "ALL DOCUMENTS referring or relating to YOUR efforts to arrive at a default interest rate that was intended to compensate YOU for actual anticipated damages that would result from a default under the \$500,000 LOAN" (*Id.* at PDF p. 25, Section B.22)
- (6) "All appraisals or title reports completed RELATING TO the REAL PROPERTY" (*Id.* at PDF p.26, Section B.26)

The tentative ruling is, notwithstanding Debtor's reply (dkt. 117), to sustain Crescent's objections (dkt. 109) to the remaining questions, without prejudice to Debtor seeking further discovery (either under Rule 2004 or under other discovery rules, as appropriate) based upon a proper showing. For example, as noted above Debtor now contemplates that it might object to Crescent's claim based on Crescent not fully funding the construction loan, but Debtor provides no information about the facts and circumstances, which might assist Crescent and this Court to evaluate whether discovery is or is not focused on relevant issues.

Did Crescent promise to fund the loan with no strings attached, or did it impose performance metrics, or was the remaining funding within Crescent's sole discretion? What dollar amount did Crescent refuse to fund? When did it do so? What reasons, if any, did it give? Is Debtor contemplating a breach

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of contract objection, or a tort claim, or both?

In addition, the tentative ruling is to overrule Crescent's remaining objections as follows:

(i) LBR 2004-1(a): While the conference between Debtor and Crescent may not have been productive (dkt. 109, p.2), this Court is satisfied that for present purposes, the parties have "attempt[ed] to confer" as required by LBR 2004-1(a).

(ii) LBR 9013-1: Although the amount of notice of Debtor's 2004 Motion was short, Crescent has not shown that it was prejudiced by such shortened notice. The tentative ruling is to excuse any untimeliness in the 2004 Motion.

(iii) Laches: Crescent has not alleged sufficient delay to persuade this Court that relief based on laches is appropriate.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/5/19 at 1:00 p.m., no written status report required

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:
Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). Once again, the bar date order has not been served. But in view of Debtor's substitution of new

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counsel, the tentative ruling is to set yet another new bar date as set forth below.

(b) Advantage Realty Group Attempted Sale Properties. The parties should be prepared to address the status of any contemplated marketing and sale of properties.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set to 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt.

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46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). The order directs the debtor to serve all parties in interest no later than 7/16/18 but no proof of service appears on the docket. Why not? The tentative ruling is to set a new bar date of 12/7/18 (the debtor should not serve any notice at this time; this Court will prepare and issue the order after the hearing).

(b) Application to Employ Hector Perez/Advantage Realty Group (dkt. 33). There is no tentative ruling, but the parties should be prepared to address (1) the issues raised in the opposition by Crescent Capital Holding LLC (dkt. 45); (2) whether the debtor is seeking to employ Mr. Perez, or Advantage Realty Group, or both; and (3) the absence of Local Form 2014-1 (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov).

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set see above.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/16/18 at 1:00 p.m., *brief* status report due 10/4/18

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18:

Appearances required by counsel for the debtor and by the debtor itself.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 18) and other relevant documents.

(a) Status Report. Debtor used an old form of status report. Judge Bason's current posted procedures require the use of local form F

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2081-1.1.C11.STATUS.RPT. Counsel is directed to review Judge Bason's posted procedures and to use the appropriate form status report in future.

(b) Motion for relief from automatic stay. There is no tentative ruling, but the debtor and Crescent Capital Holding LLC should be prepared to address the issues raised in the motion (dkt. 17) and debtor's response (dkt. 21) regarding the Las Flores property, including the previous grant of "in rem" relief against the property, and whether the debtor has provided sufficient evidence of insurance on the property.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 9/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/28/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

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2:18-16732 Motiv8 Investments, LLC

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#8.10 Hrg re: Motion for relief from stay [RP]

WRCOF ASSET TRUST 2017-2
vs
DEBTOR

Docket 134

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8, 5/7/19 at 1:00 p.m.).

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

WRCOF Asset Trust 2017-2

Represented By
Kristin A Zilberstein

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2:19-14626 XELAN Prop 1, LLC

Chapter 11

#9.00 Order Directing Debtor and its Manager, A. Kihagi,
to Appear and Show Cause why case should not
be dismissed due to lack of attorney

Docket 6

***** VACATED *** REASON: case dismissed 5/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

XELAN Prop 1, LLC

Pro Se

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2:19-14626 XELAN Prop 1, LLC

Chapter 11

#10.00 Status Conference re: Chapter 11 Case

Docket 1

***** VACATED *** REASON: case dismissed 5/1/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

XELAN Prop 1, LLC

Pro Se

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#1.00 Hrg re: U.S. Trustee's Motion to Dismiss or Convert Case

Docket 76

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2.1,
5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#2.00 Hrg re: Motion for Order: (1) Approving Asset Purchase Agreement and Authorizing the Sale of Property free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. § 363(b) and (f); (2) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; (3) Approving the Form and Manner of Notice; and (4) Approving Buyer as Good Faith Purchaser Pursuant to 11 U.S.C. § 363(m)

Docket 80

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:18-24571 Jackies Cookie Connection LLC

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#2.10 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019

Docket 5

Tentative Ruling:

Revised Tentative Ruling for 5/7/19:

Appearances required.

(1) Current issues

(a) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Continue to to be heard concurrently with the continued status conference (see part "(2)" of this tentative ruling, below). If, prior to the continued hearing date, Debtor files a declaration that it has closed the proposed Sale Part One, this Court anticipates that the tentative ruling for the continued hearing will be to deny the Conversion Motion without prejudice.

(b) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

Grant the Sale Motion, but only on the following terms:

(i) Minimum dollar amount for Sale Part Two. Debtor's principal, Ms. Rachel Galant, is essentially agreeing to pay debts on which she is already the guarantor (Sale Part One, estimated at \$450,000), and if there is any money left over from the anticipated \$550,000 proceeds of the refinance and sale of her home, then that residual amount (estimated at \$100,000, but possibly much less, down to \$-0-) will be used to pay for Debtor's intellectual property and some *de minimus* assets (Sale Part Two).

The tentative ruling is that there must be a minimum dollar amount payable for Sale Part Two. That is essentially the consideration Ms. Galant must pay (beyond what she owes anyway, as a guarantor) for being able to continue her business without successor liability, based on the Bankruptcy Code's ability to sell property free and clear of an liability that would otherwise follow the assets (which is one type of "interest" in such property). See, e.g., *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003). See

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also Myers v. U.S., 297 B.R. 774 (Bankr. S.D. Cal. 2003).

The tentative ruling is to set the minimum consideration for the Sale Part Two at not less than \$50,000. The tentative ruling is that this dollar amount is subject to overbids, as set forth below.

(ii) Overbids. The proposed sale must be subject to any overbids at the hearing, including any overbids that are not cash (in whole or in part), or that are for fewer than all assets, or any other combination of things. Any "highest and best" determination must be made initially by Debtor, but subject to any objections and resolution by this Court. See generally, e.g., *In re Lahijani*, 325 B.R. 282 (9th Cir. BAP 2005); *In re Mickey Thompson Entm't Group, Inc.*, 292 B.R. 415, 421 (9th Cir. BAP 2003).

(iii) Backup bids. Any sale must be subject to any backup bids, in the event the winning bidder does not timely close either Sale Part One or Sale Part Two. For example, if the proposed purchaser - Debtor's principal - were to close Sale Part One but fail to close the Sale Part Two, and if a backup bidder has been approved for Sale Part Two, then the backup bidder could acquire the Sale Part Two assets (Debtor's recipes, trademarks, and other intellectual property).

(iv) Deadline for resolution of any disputes regarding purchase/cure amounts for equipment. The motion lists some cure/payment amounts as "TBD." In addition, one creditor has objected. See Sale Motion (dkt. 82, Schedules A&B), and see Direct Cap. Corp. Obj. (dkt. 93) (asserting \$11,050.14 arrears plus \$5,411.34 attorney fees to date, for a total alleged cure amount of approximately \$16,461.48).

The tentative ruling is to set a deadline of **May 20, 2019** for Debtor to reach agreement with any equipment lessor/lienholder, or else those creditors will be free to repossess the equipment and must be given access to do so on 24 hours' notice. The reason is that the equipment must be removed by the end of May, or the bankruptcy estate will "abandon" the equipment (technically, an "abandonment" under 11 U.S.C. 554 is abandonment from the estate to Debtor; but Debtor apparently means that it intends to leave the equipment at the landlord's premises, for disposition by the landlord - this Court expresses no opinion whether that would create any postpetition liability, or what competing rights might exist in the equipment at that point). Any dispute can be addressed at the continued hearing on the same date as the continued status conference (see below).

(v) Good faith finding

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Any "good faith" finding under 11 U.S.C. 363(m) will need to be supported by sufficient evidence (see the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov). Normally that would include more information than what is Ms. Galant's declaration. See Dkt. 82, p.6:1-7. But the tentative ruling is to accept that declaration, combined with the purchase price above the debts for which she is personally liable and the agreement to turn over to Debtor any profit on resale of equipment, as sufficient *prima facie* evidence of good faith.

As to the objection of the "Objecting Creditors" (Mr. Haloosim *et al.*, dkt. 87), this Court is inclined to agree with Debtor that, on the present record, there is a *prima facie* showing by Debtor of sufficient marketing, and insufficient evidence of any improper conduct by Debtor. As for their objections under 11 U.S.C. 363(f), this Court questions whether they have an "interest" in the property to be sold and, if not, whether they have standing to raise any objections. In addition, as stated in the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov):

§ 363(f): Sales free and clear. Regarding § 363(f)(5), Judge Bason does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under that statute whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, Judge Bason has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to

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appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/21/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

(1) Current issues

This Court has reviewed the debtor's latest filed documents and is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

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(c) Continued status conference: 5/7/19 at 2:00 p.m., to be concurrent with the motion of the United States Trustee to convert or dismiss this case (dkt. 76, 90) and Debtor's 363 sale motion (dkt. 80). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required for the status conference, but not for the abandonment motion. Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Dismissal or conversion

Debtor's fourth status report alleges (dkt. 62, p.2:10) that a "363 motion, supported with a stalking horse bid, will be submitted to the court" at some unspecified future date. This Court and parties in interest have heard that hope before, but it appears highly unlikely that Debtor will receive a bid that will exceed the losses that are accruing meanwhile.

Debtor's situation appears to be getting steadily worse, both on a cash basis and in terms of accrued liabilities for postpetition real property rent, equipment leasing, etc. See MOR for Jan. 2019 (dkt. 57) (small positive cash flow, but \$48,522.19 in postpetition payables as against \$6,281.31 receivables) *and* MOR for Feb. 2019 (dkt. 63) lines 22-25 (net cash flow of (\$1765.14) and increase in payables to \$96,380.19 - almost double the prior month - as against \$6,281.31 receivables - unchanged).

The tentative ruling is to dismiss this case and let Debtor and its secured creditors/equipment lessors make whatever arrangements they see

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fit for disposing of the collateral/leased equipment. (Office of the United States Trustee to lodge proposed order.)

(b) Motion to Compel Abandonment of Property (dkt. 59)

Grant. (Movant Shmashssma, LLC to lodge proposed order.)

Proposed orders: The above-referenced parties are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues.

Debtor's status report (dkt. 55) reports some alleged progress in exploring either sale(s) of assets or sale of the business or both. What is the timeline? What assurances do creditors have that debtor's uncertainty on these issues (two months into this case) will not deplete rather than enhance any potential recoveries?

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

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(c) Continued status conference: 3/26/19 at 1:00 p.m., with a *brief* status report due 3/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. Continue as set forth below.

(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days

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before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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#3.00 Hrg re: Motion to withdraw as bankruptcy counsel

Docket 418

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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#3.10 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/7/19:

Appearances are not required

(1) Current Issues

(a) Motion to Withdraw as Bankruptcy Counsel (Sakurai dkt. 418)
Grant.

(b) Motion to Withdraw as Bankruptcy Counsel (Checkmate dkt. 294)

This Court has sought to assure that Debtor and its principal(s) receive proper notice of the motion by its counsel, Mr. Aronson and/or his firm (collectively, "Aronson"), to withdrawal from representing Debtor in this bankruptcy case. Such notice would be important in any bankruptcy case. It is especially important in this situation, because (i) Debtor is not an individual so it is prohibited from appearing without counsel and (ii) there are pending sanctions proceedings against Debtor's principal(s) - Mr. Sakurai (and, possibly, Ms. Sakurai), and Debtor's lack of legal counsel might adversely effect them in those proceedings.

Proper notice is also important for another reason. It protects Aronson in the event that Debtor later asserts that it did not consent to Aronson's withdrawal, and was not properly served.

But Aronson has not complied with this Court's order directing service and setting this hearing (the "Hearing Order"). First, Aronson did not serve Debtor in accordance with Rule 7004(b)(3). Second, he did not serve Debtor or its principal(s) timely.

As the Hearing Order previously explained:

The Withdrawal Motion was not served on Debtor in accordance with Rule 7004(b)(3) (Fed. R. Bankr. P.), which requires service on

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a corporation to be to the attention of an Officer (or other agent authorized to accept service of process). [Dkt. 296, p.1:26-28]

(As the above-quoted language recognizes, service can be made on an agent for service of process, but there are separate problems, described below, with any reliance on that alternative.)

The Hearing Order ordered Mr. Aronson to serve Debtor in compliance with Rule 7004:

Aronson is directed no later than April 25, 2019, to serve the Motion and a copy of this Order, and file a proof of service, all in accordance with Fed. R. Bankr. P. 7004 [Dkt. 296, p.2:24-26 (emphasis added)]

Mr. Aronson did not serve these papers until sometime on Tuesday 4/30/19. It is not clear whether service was before or after the U.S. mail pickup time: the proof of service was not filed until 6:30 p.m. See dkt. 301 at PDF pp. 23-24. So this Court cannot presume mail pickup before Wednesday May 1. Then, adding three days for service by mail (per Rule 9006(f), Fed.R.Bankr.P.), this Court cannot presume delivery before Saturday May 4. Next, this Court cannot presume that business mail delivered on a Saturday is necessarily picked up and read prior to a normal business day - this Court takes judicial notice that the Sakurais have a mailing address that is different from their street address; and this Court takes judicial notice that Debtor's agent for service of process might require a business day or more to forward mail to Debtor. In sum, it appears that this Court cannot presume service prior to sometime on Monday May 6, 2019.

The Hearing Order set May 6 as the deadline for Debtor or Mr. and Ms. Sakurai to file and serve any written response to Aronson's motion to withdraw, and set the hearing for May 7. In other words, Debtor and its principal(s) had essentially no notice of their deadline to respond to the motion to withdraw, and perhaps less than 24 hours' notice of the hearing. Although shortened notice is permissible upon a sufficient showing (Rule 9006, Fed. R. Bankr. P.), no showing has been made for such exceptionally shortened notice.

Mr. Aronson declares (dkt. 302, p.1, para.6) that he had a telephone conversation with Debtor's principal, Mr. Sakurai, and obtained oral assurances that Aronson could email Mr. Sakurai. That is insufficient. See Rule 5(b)(2)(E) (Fed. R. Civ. P., incorporated by Rule 7005 & 9014(b), Fed. R. Bankr. P.) (requiring consent to electronic service "in writing"). Moreover,

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given the possible effects on Debtor's principal(s) - e.g., derivative claims by Debtor against Mr. and/or Mrs. Sakurai - it seems appropriate to assure service on both of them; but Mr. Aronson's declaration only asserts that oral and email notice was given to Mr. Sakuria.

Why was it impossible for Mr. Aronson, while he was out of his office, to arrange for service via U.S. mail by his staff or a colleague on 4/25/19, or failing that then the next day? If that was not possible, why did he not serve his client via overnight delivery on 4/30/19, instead of via U.S. mail?

In sum, Mr. Aronson's efforts to comply with this Court's Hearing Order appear to be inadequate. The tentative ruling is to continue the hearing on Aronson's motion to withdraw to the same time as the continued status conferences (see below), with **a new deadline of 5/17/19 for any response** by Debtor and/or Mr. or Ms. Sakurai, and with a direction to Aronson, **no later than 5/8/19**, to serve a notice of the continued hearing, and a copy of this tentative ruling, on each of those persons at all of their known addresses via **overnight mail** (except for service in Japan via regular U.S. airmail), all in full compliance with Rule 7004 (Fed. R. Bankr. P.).

Proposed orders: Movants are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B). Aronson is directed to attach a copy of this tentative ruling for 5/7/19.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases): 5/21/19 at 2:00 p.m. (no written status report required).

(d) Continued adversary proceeding status conference (Radiology/Fower): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

Tentative Ruling for 4/30/19:
Appearances are not required.

(1) Current Issues

(a) Implementation of the Plan; OSC (Sakurai dkt. 386), OSC Supp.

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(id. dkt. 399), and Sanctions Order (id. dkt. 407).

Based on the Debtors' Status Report (Sakurai dkt. 417), Debtors have failed to comply with the OSC, OSC Supp. and Sanctions Order. In addition, it appears that Debtors are refusing to sell the Las Vegas Property.

Based on the supplemental evidence (Sakurai dkt. 408), the tentative ruling is to award the Fresco Parties \$10,371.50 in attorneys fees as compensatory sanctions (without prejudice to seeking additional amounts in future). In addition, the tentative ruling is to increase coercive sanctions to \$200.00 per day against Debtors until they comply with this Court's prior orders.

Proposed orders: The Fresco Parties are directed to lodge proposed orders (one awarding interim compensatory sanctions, and one increasing the coercive sanctions) via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 4/30/19, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases): 5/7/19 at 2:00 p.m. (no written status report required), to be concurrent with the motions of Debtors' counsel to withdraw.

(d) Continued adversary proceeding status conference (Radiology/Fower): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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**Tentative Ruling for 4/9/19:
Appearances Required**

(1) Current Issues

(a) Implementation of the Plan; Order to Show Cause ("OSC," dkt. 386), and supplemental order ("OSC Supp," dkt. 399)

Debtors have not responded to the OSC (dkt. 386) or the OSC Supp (dkt. 399). The Fresco Parties have responded with a supplemental brief (dkt. 403) pointing out that this Court cannot appoint a chapter 11 trustee, but also recapping the disadvantages of conversion to chapter 7, and suggesting instead that (i) this Court should sanction Debtors, (ii) this Court should replace the current disbursing agent under the confirmed Plan, Mr. Aronson, with a new disbursing agent (the mechanism to choose such a person is not discussed), and (iii) this Court should vest that person with the power to execute documents to implement the Plan pursuant to 11 U.S.C. 1142(b):

1142. Implementation of plan

* * *

(b) The court may direct the debtor and any other necessary party to execute or deliver or to join in the execution or delivery of any instrument required to effect a transfer of property dealt with by a confirmed plan, and to perform any other act, including the satisfaction of any lien, that is necessary for the consummation of the plan.

The tentative ruling is to find that the individual Debtors are in contempt of court for each of the reasons stated in the OSC and the OSC Supp, and to award the compensatory, coercive, and punitive sanctions set forth below. As for issuing order(s) replacing the disbursing agent and vesting some person with power to execute documents and do other things necessary or appropriate to implement the Plan, this Court is concerned that such orders might exceed the scope of authority under section 1142(b), but similar relief might be available using other mechanisms, perhaps only after commencing an adversary proceeding or perhaps not, under Rules 70 and 71 (Fed. R. Civ. P., incorporated by Rules 7001(7), 7070, 7071, and 9014(c), Fed. R. Bankr. P.). The parties are directed to address these issues at the hearing.

As for sanctions, the tentative ruling is to set a deadline of 4/14/19 for the Fresco Parties to file and serve their declaration(s) with attached

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timesheets, a deadline of 4/23/19 for Debtors and the U.S. Trustee to file and serve any responses, and any reply may be presented orally at the continued hearing. In addition, the tentative ruling is to impose coercive sanctions, payable to the Court, starting at \$100 per day and continuing until Debtors comply with all of their obligations set forth in the OSC and the OSC Supp, all subject to being increased or otherwise adjusted at the continued hearing. In addition, the tentative ruling is to impose punitive sanctions of \$2,500, payable to this Court, also subject to adjustment in future (either by this Court or by the District Court if punitive sanctions or other issues are before the District Court - because of the limitations on this Bankruptcy Court's ability to award any punitive sanctions, it may be necessary for the District Court to address that issue, which might be accomplished by a recommendation from this Court for withdrawal of the reference, perhaps only for that limited purpose, or which might be based on proposed findings of fact and conclusions of law by this Court, or any other mechanism that is appropriate). See *In re Dyer*, 322 F.3d 1178, 1195 (9th Cir. 2003); see also *In re Count Liberty, LLC*, 370 B.R. 259, 274 (Bankr. C.D. Cal. 2007).

The continued hearing on the OSC and the OSC Supp will be concurrent with the continued status conference set forth below.

(b) Coordination with Japanese authorities

This Court intends to address briefly with the parties what methods may be appropriate to request and obtain the assistance of any authorities in Japan in enforcing the terms of the Plan and this Court's orders. This Court may set a briefing schedule to address those things.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

(c) Continued post-confirmation status conference (in the Sakurai and Checkmate cases): 4/30/19 at 2:00 p.m. (status report due 4/23/19).

(d) Continued adversary proceeding status conference (Radiology/Fower): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:
Appearances Required

(1) Current Issues

(a) Order to Show Cause ("OSC," dkt. 386)

The parties should be prepared to address the issues raised by the OSC (dkt. 386), the motion for the OSC (dkt. 384), the status report (dkt. 390), the declaration of the Sakurais' counsel Mr. Gebelt (dkt. 391), and the reply of the Fresco Parties (dkt. 392).

2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 4/30/19 at 2:00 p.m. (status report due 4/23/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 1/15/19:
Appearances Required

(1) Current Issues

(a) Final Fee Application for Debtor's Counsel (*Checkmate*, dkt. 249,

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250, 253, 255, 257, 258, 261, 264; and Sakurai, dkt. 343, 346, 352, 355, 356, 363, 367)

The applications seek \$350,846.10 (Checkmate) and \$118,796.75 (Sakurai). This Court has allowed a total of \$300,000, and set this continued hearing to address the balance of \$169,642.85. See Interim Fee Orders (dkt. 261, Checkmate; dkt. 363, Sakurai).

The Fresco parties' objections note that this Court has on more than one occasion expressed grave concerns about whether these Debtors have adequately prosecuted these bankruptcy cases. Of course, this Court expects that counsel for the debtors would not in any way have participated in any attempts by these Debtors to mislead or obstruct creditors in these cases, but that is not the end of the inquiry.

On the one hand, when there are legitimate strategic or tactical reasons to chose among different courses of action, counsel for Debtors usually must act at their clients' direction, even if they might harbor some doubts about the efficacy of those choices. On the other hand, in addition to the ethical limits of what counsel may do at their clients' direction, counsel are only permitted "reasonable compensation for actual, necessary services" (11 U.S.C. 330(a)(1)(A) (emphasis added)), and in determining what compensation is reasonable this Court "shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including [among other things] whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, [these bankruptcy cases]."

In these cases there are open questions about (i) Debtors' own acts and omissions, and whether Debtors were or were not engaging in a lack of diligent prosecution of these cases or other misconduct, (ii) whether Debtors, if deposed or examined at trial on those issues, will or will not assert advice of counsel, and (iii) whether, regardless of the foregoing issues, counsel for Debtors can satisfy the above-referenced statutory requirements. For all of these reasons, the tentative ruling is that the Fresco parties must have a reasonable period of time in which to conduct discovery to investigate Debtors' apparent failures to prosecute these cases or other misconduct, and whether, in view of the results of any such discovery, the compensation sought by counsel for Debtors is for "necessary" services and is "reasonable" in dollar amount, given all of the facts and circumstances.

Meanwhile, although this Court recognizes that all interim

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compensation may be revisited in connection with any final award, the question is how much to award on an interim basis, and whether any disbursed funds must be held in trust. The tentative ruling is to award another \$35,000 to counsel for Debtors, to be allocated pro rata in proportion to their outstanding fee requests, without requiring any portion of those funds to be held in trust, but also without prejudice to allowance of a greater or lesser final award.

The parties should be prepared to address the schedule for discovery on the issues outlined above. The tentative ruling is that a five month period is appropriate.

Then, in connection with any final fee award, or at such other time as this Court may later determine, the Fresco parties' objections can be revisited with the benefit of both (i) any discovery and (ii) any subsequent developments. For example, any additional disclosures and/or recoveries in the Fower/Radiology litigation might shed light on whether Debtors' and their counsel's strategies and tactics in dealing with those parties were appropriate at the time they were made. (This Court emphasizes that any subsequent developments would be relevant only to the extent they shed light on what was reasonable at the time the legal services were rendered - not for purposes of "20/20 hindsight.")

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 3/26/19 at 2:00 p.m. (status report due 3/19/19).

*Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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CONT... Yuichiro Sakurai and Akemi Sakurai
appropriate for disposition at this hearing.

Chapter 11

Tentative Ruling for 1/15/19:

This Court anticipates posting a tentative ruling at a later time.

**Tentative Rulings for 10/26/17 through 1/8/19:
[OMITTED FOR BREVITY]**

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22648 Checkmate King Co., LTD

Chapter 11

#4.00 Hrg re: Motion to withdraw as bankruptcy counsel

Docket 294

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

**United States Bankruptcy Court
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2:17-22648 Checkmate King Co., LTD

Chapter 11

#4.10 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.4, 4/30/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

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CONT... **Checkmate King Co., LTD**

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Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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CONT... Checkmate King Co., LTD
appropriate for disposition at this hearing.

Chapter 11

Tentative Ruling for 6/12/18:
Appearances required.

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.

(c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:
Appearances required.

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CONT... Checkmate King Co., LTD

Chapter 11

(1) Current issues.

(a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

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(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and

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conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93,

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100, 102, 104, 105, 106, 109, 112, 113).

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- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)
 - (b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

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Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on a final basis.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

**#5.00 Hrg re: Motion for an Order Authorizing the Continued
Use of Cash Collateral on Extended Budget**

Docket 156

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 7,
5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#6.00 Cont'd hrg re: Application to Employ Margulies Faith LLP
as General Bankruptcy Counsel Pursuant to
11 U.S.C. §§ 327(a) and 330
fr. 04/09/19

Docket 83

Tentative Ruling:

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 7,
5/7/19 at 2:00 p.m.)

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the status conference (calendar no. 1,
4/9/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 5/7/19:

Appearances required.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week without further authorization of this Court. (To be clear: if Debtor in its

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business judgment believes that it must incur more than that amount of professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

(c) Cathay Bank's adequate protection: replacement liens v. cash payments

The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

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(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report

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CONT... **Schaefer Ambulance Services, Inc**
due 4/23/19.

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate declaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations,

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10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections

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CONT... **Schaefer Ambulance Services, Inc**

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and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

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Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual

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standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.*, were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

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Schaefer Ambulance Services, Inc

Chapter 11

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

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2:19-10762 Koi Design LLC

Chapter 11

#1.00 Cont'd Final Hrg re: Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d) Debtor's Notice of Emergency Motion and Emergency Motion for Entry of Interim and Final Orders: (1) Authorizing the Debtor to Obtain Postpetition Financing; (II) Authorizing Use of Cash Collateral; (III) Granting Liens and Super-Priority Claims; (IV) Granting Adequate Protection to Prepetition Secured Lender; (V) Modifying the Automatic Stay; (VI) Scheduling a Final Hearing; and (VII) Granting Related Relief
fr. 4/9/19, 04/22/19

Docket 129

Tentative Ruling:

Tentative Ruling for 5/14/19:

Please see tentative ruling in status conference (5/14/19, cal no. 2 at 1:00 p.m.)

Tentative Ruling for 4/22/19:

Please see tentative ruling in status conference (4/22/19, cal no. 3 at 10:00 a.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, cal no. 12 at 1:00 p.m.).

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Sefflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

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#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/14/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's Objection and Motion to Strike ("Motion to Strike," dkt. 175) Request for Judicial Notice by Strategic Partners, Inc. ("Strategic," dkt. 161)

Deny. This Court can take judicial notice of the Magistrate Judge's report and recommendation for the limited purpose of showing that there is a substantial risk that Debtor will have a substantial debt to Strategic. That issue is relevant to the purposes, risks, and benefits of Debtor's proposed financing.

(b) Motion for Authority to Obtain Credit (dkt. 129, the "DIP Financing Motion")

Grant the DIP Financing Motion on a final basis on the same terms as set forth in the interim order (dkt. 159), and overrule Strategic's supplemental objection (dkt. 168), for the reasons set forth in Debtor's supplemental reply (dkt. 174) at pp. 3:6-5:13 & nn. 4 & 5, and based on this Court's review of Debtor's projected budget (dkt. 151, Ex.A) and Debtor's postpetition financial performance (e.g., dkt. 146). The tentative ruling is that the proposed financing has been shown to be appropriate under the statutory standards (11 U.S.C. 364(d)) and that Debtor has met its burden to show adequate protection of Strategic's interests in property of the bankruptcy estate (*id.*).

Proposed orders: Debtor is directed to lodge proposed orders on the foregoing motions via LOU within 7 days after the hearing date, and attach a copy of this latest tentative ruling, thereby incorporating it as this Court's final ruling, subject to any modifications on the record at the hearing. See LBR 9021-1(b)(1)(B).

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CONT... Koi Design LLC

Chapter 11

- (2) Deadlines/dates. This case was filed on 1/25/19.
- (a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19).
 - (b) Plan/Disclosure Statement*: [TBD] At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 7/16/19 at 1:00 p.m. (to be concurrent with the status conference in Debtor's adversary proceeding against Strategic, Adv. No. 2:19-ap-01135-NB), no written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/22/19:

Appearances required by counsel for the debtor.

- (1) Current issues
- (a) Cash Collateral Motion (dkt. 4)
Grant on a final basis.
 - (b) Motion for Authority to Obtain Credit (dkt. 129, the "DIP Motion")
Grant the DIP Motion on an interim basis and continued for a final hearing at the same time as the continued status conference, based on the assertions that Wells Fargo has an oversecured, unavoidable, perfected lien. If those assertions turn out to be untrue, the DIP financing will be rejected.
- Proposed orders: Debtor is directed to lodge proposed orders on the foregoing motions svia LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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Chapter 11

- (2) Deadlines/dates. This case was filed on 1/25/19.
- (a) Bar date: 5/17/19 (dkt. 65) (*served 2/22/19*).
 - (b) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 6/4/19 at 1:00 p.m., status report due 5/28/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 3/5/19

Appearances required by counsel for the debtor.

(1) Current issues

- (a) Emergency Payroll Motion (dkt. 3)
Grant on a final basis, on the same terms as in the interim order (dkt. 28).
- (b) Cash Collateral Motion (dkt. 4)
Subject to addressing the issues raised in the reservations of rights filed by creditors Wells Fargo Trade Capital Services, Inc. ("Wells Fargo," dkt. 75) and Strategic Partners, Inc. ("Strategic," dkt. 76), grant this motion on a final basis, on the same terms as in the interim order (dkt. 29).
- (c) Cash Management Motion (dkt. 6)

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Subject to an update from Debtor and, if they elect to appear, counsel for the United States Trustee, regarding the adequacy of Debtor's cash management procedures, the tentative ruling is to grant this motion on a final basis, on the same terms as in the interim order (dkt. 27).

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65). Note: This Court's order setting the bar date (dkt. 65) directed Debtor to serve that order on all parties in interest no later than 2/22/19. Debtor's proof of service (dkt. 82) is deficient.

First, the declarant alleges (dkt. 82, pp.1:25-2:3) that someone else (an unnamed person) served the order. That is inadequate: a declaration of service must be based on personal knowledge.

Second, it appears that the person who served the order was someone employed by Debtor. Traditionally, service must be verified by someone who is "not a party" (see Rule 7004(a)(1), Fed. R. Bankr. P.), and Debtor has not cited any authority that the rule is different in bankruptcy cases.

The tentative ruling is to set a deadline of 3/4/19 for Debtor's counsel to re-serve the bar date order and file a proof of service that complies with the applicable rules. (This Court recognizes that this second notice of the bar date will not be received until closer to that bar date, but in the circumstances that appears to be appropriate.)

(b) Order setting principal status conference. The same deficiencies apply to the purported proof of service (dkt. 53) of this Court' order (dkt. 38) setting this principal status conference.

The tentative ruling is to set a deadline of 3/4/19 for Debtor's counsel to re-serve the principal status conference order and file a proof of service that complies with the applicable rules. (This Court recognizes that this second service of the principal status conference order will occur after the principal status conference; but in the circumstances that appears to be appropriate because that order provides official notice of important matters,

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Koi Design LLC

Chapter 11

such as notice that this Court can issue case-dispositive orders at any status conference.)

- (c) Proofs of service generally. In addition to the foregoing, Debtor's counsel are encouraged to redouble their efforts to provide accurate proofs of service. See, e.g., dkt. 82, last page (purported proof of service that appears to refer erroneously to status report rather than the declaration to which it is attached).
- (d) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
- (e) Continued status conference: 5/7/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/19

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's motion for relief from automatic stay (dkt.)

The tentative ruling is to grant this motion, on the terms and conditions set forth in calendar no. 1 (2/13/19 at 2:00 p.m.).

(b) Cash flow

Debtor is directed to provide an update on its current cash flow and anticipated DIP financing.

(2) Deadlines/dates. This case was filed on 1/25/19.

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Koi Design LLC

Chapter 11

- (a) Bar date: TBD (DO NOT SERVE notice yet - court will prepare an order after the status conference).
- (b) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
- (c) Continued status conference: 3/5/19 at 1:00 p.m., status report due 2/19/19 (see dkt. 38).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/19

Appearances required. There is no tentative ruling, except that Debtor is directed to provide a brief overview of Debtor's current situation and possible exit strategies, and this Court intends to continue the status conference to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Koi Design LLC

Represented By

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Koi Design LLC

Susan K Seflin
Jessica L Bagdanov

Chapter 11

**United States Bankruptcy Court
Central District of California
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Thursday, May 16, 2019

Hearing Room 1545

8:30 AM

2:19-10855 Melanie Honey Adler

Chapter 13

#1.00 Hrg re: Motion for authority to incur debt

Docket 28

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Melanie Honey Adler

Represented By
Steven L Bryson

Movant(s):

Steven L. Bryson

Represented By
Steven L Bryson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 16, 2019

Hearing Room 1545

8:30 AM

2:14-16044 Hermie Guanlao Cosme and Maria Elena Cosme

Chapter 13

#2.00 Hrg re: Motion to modify plan or suspend plan payments

Docket 34

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Hermie Guanlao Cosme

Represented By
Hasmik Jasmine Papian

Joint Debtor(s):

Maria Elena Cosme

Represented By
Hasmik Jasmine Papian

Movant(s):

Kathy A Dockery (TR)

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

2:18-19093 Rodney Albert Gabriel, Jr

Chapter 13

#3.00 Hrg re: Motion for authority to sell or refinance real property

Docket 51

Tentative Ruling:

Appearances required. Grant subject to the conditions stated in the response filed by the Chapter 13 Trustee (dkt. 61) including a written consent to any short sale, by any creditors with liens against the property who are not paid in the full amount of their demands out of escrow - *i.e.*, the Franchise Tax Board ("FTB") (dkt. 55), the Internal Revenue Service ("IRS") (see dkt. 61), and all other holders of liens against the subject property, but not Mercedes Benz or any other creditors whose liens are against other property. Debtor has neither requested relief under 11 U.S.C. 363(f) nor briefed how he meets the standards for such relief, so the tentative ruling is to deny any such relief on the present record.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodney Albert Gabriel Jr

Represented By
Julie J Villalobos

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CONT... Rodney Albert Gabriel, Jr

Chapter 13

Movant(s):

Rodney Albert Gabriel Jr

Represented By
Julie J Villalobos

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, May 16, 2019

Hearing Room 1545

8:30 AM

2:19-10939 Nana Tatiboit

Chapter 13

#4.00 Hrg re: Motion for order determining value of collateral
Creditor: UNIFY Financial Federal Credit Union f/k/a
Federal Credit Union

Docket 32

***** VACATED *** REASON: Stipulation (dkt. 38) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nana Tatiboit

Represented By
Matthew D. Resnik

Movant(s):

Nana Tatiboit

Represented By
Matthew D. Resnik
Matthew D. Resnik
Matthew D. Resnik
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:19-12334 Lessie Williams

Chapter 13

#5.00 Hrg re: Motion for order determining value of collateral
Creditor: American Credit Acceptance

Docket 22

Tentative Ruling:

Continue to 6/13/19 at 8:30 a.m. to address the following issues. Any supplemental evidence or brief must be filed and served no later than 5/30/19. Appearances are not required on 5/16/19.

Reasons:

Evidence of value

Although owners of property generally are deemed competent to provide opinion testimony regarding the value of that property, in this case Debtor's opinion lacks any stated foundation. The tentative ruling is to require as a foundation a Kelley Blue Book report, or similar valuation. That valuation must establish the "replacement value" (not trade-in value) that a "retail merchant" would charge the public for a vehicle of similar age and condition, as of the petition date, "without deduction for costs of sale or marketing." 11 U.S.C. 506(a)(2). This Court's requirement of such foundational evidence, notwithstanding the lack of response by the creditor, is pursuant to 11 U.S.C. 105(a), 506(a)(2); Rule 104(a), 403, 602 and 701 (Fed. R. Evid.); and Rules 9014(c) and 7055 (Fed. R. Bankr. P.) which, in this Court's discretion, incorporate Rule 55(b)(2)(B) and not Rule 55(b)(1) (Fed. R. Civ. P.). See also *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005) (affirming bankruptcy court's disallowal of claims even though some creditors did not respond).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Lessie Williams

Chapter 13

Debtor(s):

Lessie Williams

Represented By
Roseann Frazee

Movant(s):

Lessie Williams

Represented By
Roseann Frazee

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

8:30 AM

2:18-17617 Ericka A Reinke

Chapter 13

#6.00 Hrg re: Motion for order to either compel U.S. Bank, N.A., dba USB Leasing LT, Respondent to: (1) Affirmatively disposes debtor of its surrendered collateral, pursuant to the Order Confirming Debtor's Second Amended Plan; or, alternatively, (2) To effectively order the transfer of title of the destroyed collateral to the debtor so that she may lawfully dispose of it at a metal salvage facility

Docket 35

*** VACATED *** REASON: Cont. to 7/18/19 at 8:30 a.m. per stipulation (dkt. 38) and order thereon.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ericka A Reinke

Represented By
Todd J Roberts

Movant(s):

Ericka A Reinke

Represented By
Todd J Roberts

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

8:30 AM

2:18-23573 Norma Isidra Renteria

Chapter 13

#7.00 Hrg re: Motion for Damages for Creditor Misconduct Pursuant to FRBP 3001(c)(2)(D)(ii) for "Appropriate Relief" Against Claimant E-Tail Network, Inc. and its Counsel Michael Wallin

Docket 32

Tentative Ruling:

Deny. Appearances are not required.

Proposed order: Claimant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons for denial:

(1) Request for attorney's fees and costs under Rule 3001(c)

Rule 3001(c) (Fed. R. Bankr. P.) provides in relevant part:

(1) *Claim Based on a Writing.* [With inapplicable exceptions,] when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

...

(2) *Additional Requirements in an Individual Debtor Case; Sanctions for Failure to Comply.* In a case in which the debtor is an individual:

...

(D) If the holder of a claim fails to provide any information required by this subdivision (c), the court may, after notice and hearing, take either or both of the following actions:

(i) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified

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Norma Isidra Renteria

Chapter 13

or is harmless; or

(ii) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure. [Rule 3001(c)(1)&(2) (Fed. R. Bankr. P.) (emphasis added)]

Debtor argues that creditor E-Tail Network, Inc. ("Creditor") did not file a "copy of the writing" on which its claim or its asserted interest in Debtor's property is "based" (within the meaning of the above-quoted provisions). The tentative ruling is that this argument is not persuasive.

Creditor attached an abstract of judgment and a writ of execution to its proof of claim. See Claim 2-1. The fact that Debtor could assert a lack of evidence of timely renewal of that judgment, and that Creditor could assert the opposite, only establishes that there is a dispute, not a failure to attach writings on which the claim is "based."

To require more would mean that creditors would have to attach voluminous writings, which would be too burdensome on them and other parties and this Court. Nor would the added paperwork meaningfully aid in understanding the basis of claims or defenses, or meaningfully supplement the discovery rules and obligations that already aid in determining the validity of any claims. See, e.g., *In re Campbell*, 336 B.R. 430, n.7 & accompanying text (9th Cir. BAP 2005) (broad interpretation of Rule 3001's requirement of "writing" would require voluminous documents in typical situations); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005) (same). (Rule 3001(c) has been amended, after *Campbell* and *Heath*, to specify what writings must be attached when a revolving credit agreement is involved, but for other types of claims the operative language remains the same.)

In the alternative, the tentative ruling is to exercise this Court's discretion not to award attorney fees. The above-quoted text of Rule 3001 states that this Court "may" award such fees, and in this case there was very little authority construing the deadline for renewal of the lien created by an abstract of judgment; there were many potential issues; and those issues were sufficiently in doubt that it is more appropriate to apply the "American Rule" that each party bears its own legal fees. See Order (dkt. 30) pp.3-4 (discussing various issues).

This Court recognizes that Creditor and its counsel have been aggressive; and some of their arguments have lacked depth or clarity (see, e.g., dkt. 28). See also Debtor's Reply (dkt. 37). But recognizing the range of possible recoveries and the expense of litigation, it is understandable that

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Creditor would attempt to minimize its briefing on the claim objection. More to the point, no *allegedly* bad behavior by Creditor and its counsel changes the tentative ruling that Creditor did supply the "writing" on which the claim was "based," so Rule 3001(c) is not a ground for any award of attorney fees.

(2) Request for sanctions pursuant to Rule 9001

The tentative ruling is that Debtor has not established an improper purpose, or any legal contention that was not warranted by non-frivolous arguments, or any other ground for an award of attorney fees under Rule 9011 (Fed. R. Bankr. P.). Again, this Court recognizes that Creditor and its counsel may have been aggressive and did not fully brief the claim objection issues; but the tentative ruling is that this is not enough under Rule 9011.

(3) Conclusion

Debtor's counsel was faced with a range of issues that led to a thorough claim objection and, ultimately, a good result for Debtor. It is understandable that this took a substantial amount of time, and that Debtor would like to shift attorney fees to Creditor. But the tentative ruling is that neither Rule 3001 nor Rule 9011 provide a sufficient basis for any fee shifting.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Norma Isidra Renteria

Represented By
Glenn Ward Calsada

Movant(s):

Norma Isidra Renteria

Represented By
Glenn Ward Calsada

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CONT... Norma Isidra Renteria

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:17-15086 Anthony Edison Dawson

Chapter 13

#8.00 Hrg re: Motion to Disallow Claim Number 4 filed by Pacific Union Financial, LLC and Transferred to Nationstar Mortgage, LLC dba Mr. Cooper

Docket 81

Tentative Ruling:

Continue to 6/13/19 at 8:30 a.m. for claimant to file an amended proof of claim, and meanwhile direct the Chapter 13 Trustee to cease making distributions on any claimed arrearage (see dkt. 84). Appearances are not required on 5/16/19.

Proposed order: If the Chapter 13 Trustee requires a written order to cease making distributions on account of any pre-loan-modification arrearage, Debtor may lodge a proposed order granting such interim relief. Debtor is directed to lodge any such proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Anthony Edison Dawson

Represented By
Michael E Clark
Barry E Borowitz

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CONT... Anthony Edison Dawson

Chapter 13

Movant(s):

Anthony Edison Dawson

Represented By

Michael E Clark

Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:18-22918 Rosita Bello

Chapter 13

#9.00 Hrg re: Objection to Claim Number 5 by Claimant Merit One Lending

Docket 48

Tentative Ruling:

Deny/overrule the claim objection, and allow the claim in full, subject to resolution of one issue that this Court raises *sua sponte*, all as set forth below. Appearances required.

Proposed order: Claimant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis:

(1) Debtor's objections are not persuasive

(a) Burdens of proof

The Proof of Claim contains the documentation required by Rule 3001(c) (Fed. R Bankr. P.) and therefore it is prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). (This Court recognizes that Rule 3001(c) has been amended, after *Campbell* and *Heath*, principally to specify what writings must be attached when a revolving credit agreement is involved, but for other types of claims the language of the rule remains essentially the same.) For each of these reasons, Debtor has the burden to establish a basis to disallow the claim.

(b) Debtor's allegations of fully repaying the loan appear to be false

Debtor alleges that the loan was rescinded by return of the full loan proceeds. This appears to be false, based on the bank records and other documents produced in the claimant's response.

For example, the closing statement shows a payment of \$18,091.81 out of escrow to Ms. Hortense Paredes (dkt. 51, Ex.D) before distribution of

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\$182,589.85 to Debtor, so any alleged repayment of \$181,000 is not a complete return of the loan proceeds. In addition, Debtor ignores the other distributions listed on the closing statement, including broker fees and other transaction costs. Moreover, as set forth below Debtor does not adequately address the evidence that \$50,906.18 plus other expenditures were paid out of that \$181,000.

Any one of these things is enough to undermine Debtor's theory that the entire loan was repaid, and the loan was rescinded. Debtor has not met her burden of proof on this theory.

(c) Debtor has not established that the alleged wrongdoing by the loan broker can be attributed to the lender

Debtor accuses the loan broker's principal, Roger Duzian of Merit One Lending, of breaching fiduciary duties to Debtor. Debtor mostly does this in opposition to dismissal of this case. See dkt. 42. Those papers on other issues are not properly presented on this claim objection; but her opposition to dismissal helps to explain Debtor's claim objection, so, for the sake of discussion, this Court addresses Mr. Duzian's alleged breaches of fiduciary duty below.

Assuming, also for the sake of discussion, that Mr. Duzian engaged in some sort of wrongdoing, that does not change the fact that the lender advanced hundreds of thousands of dollars. Debtor now seeks to avoid any obligation to pay back those funds to the lender by conflating Mr. Duzian with the lender. (It is understandable that Debtor would do this, because Mr. Duzian and his firm also appear to conflate themselves with the lender, or at least conflate their role in administering the loan for lender with their alleged role(s) in various other transactions involving Debtor - see part "(2)" of this tentative ruling, below.)

Debtor appears to allege that she was talked into the loan by Mr. Duzian. But Debtor has not cited any authority that a lender has a duty to make sure that borrowing the funds was a good idea.

Debtor's other objections have to do with alleged wrongdoing that occurred after the loan was funded - such as Mr. Duzian's alleged role in getting Debtor to transfer \$181,000 back to his firm and then, supposedly, use the funds for unauthorized purposes. Again, Debtor has not cited any authority that the lender can be responsible for these alleged events concerning how the loaned funds were used.

Finally, to the extent that damages are an element of Debtor's claims

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against the lender (which she attempts to use to offset lender's claim against her), she has not established any damages. Debtor received over \$200,000 in loan proceeds (before payment of \$18,091.81 to Ms. Paredes, not to mention other payments out of escrow). That loan is secured by property that she alleges is worth \$60,000. Dkt. 11, at PDF p.11, Schedule D, item 2.14. The documentary evidence (described further below) appears to establish that Debtor used well over \$60,000 of the loan proceeds; the balance was credited to the loan; and meanwhile, Debtor apparently has been collecting approximately \$50,000 per year for roughly four years since the loan came due. So, even if Debtor loses the property, she appears if anything to have made a profit, not to have suffered any damages.

In sum, Debtor has not established a sufficient factual and legal basis why alleged wrongdoing by Mr. Duzian should exonerate Debtor from repaying the lender. See Gupta Supp. Reply (dkt. 54). This ground for objection is unpersuasive.

(d) Debtor's hearsay objection is unpersuasive

Debtor's supplemental papers (dkt. 42) and the declaration of Brad Bello (who identifies himself as Debtor's son with her power of attorney) argue that Mr. Duzian's declaration contains hearsay and is not supported by documentary evidence. It is true that neither Debtor nor claimant have produced any written confirmation of Debtor's alleged oral instructions to Mr. Duzian about how to apply some of the loan proceeds. See Duzian Decl. (dkt. 38 at PDF pp.11 *et seq.*), para. 9, 10, 11, 12, 13 & 15; *and see* dkt. 42, p.3:1-3 *et seq.* (objecting to Mr. Duzian's statements).

But Debtor's own statements to Mr. Duzian's are not hearsay. See Rule 801(d)(2)(A) (Fed. R. Evid.). Even if they were, Mr. Duzian can still testify as to his own transactions and his own understanding, and he can authenticate the documents that corroborate those things. The tentative ruling is to overrule Debtor's hearsay objection.

(e) Documentary evidence

Aside from the alleged rescission (which, as noted above, is undermined by the closing statement), Debtor objects that Mr. Durzian engaged in unauthorized transactions. He allegedly "took control and dominion over the funds and used the proceeds to pay off the default on a property which Debtor did not own" (the "Second Property"). Dkt. 42, p.4:27-28, *emphasis added*). That is a highly misleading statement.

What the documents show is that the Second Property had been

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transferred in 2010 from Debtor to Maricar Mercado (whom Debtor does not deny is her niece); on 6/26/14 Ms. Mercado gave written authorization to Mr. Duzian to act for her regarding that property and its pending foreclosure sale; the foreclosing lender's "Instructions to [credit] Bid" listed a debt of \$50,906.18 for purposes of a scheduled 7/25/14 foreclosure sale of the Second Property; bank records show a withdrawal on 7/7/14 of \$50,906.18 from a bank account in the name of Mr. Duzian's firm (*i.e.*, funds that either were being held at Debtor's request, as Mr. Duzian asserts, or were his firm's own funds); a copy of a cashier's check dated 7/7/14 for \$50,906.18 that apparently saved the Second Property from foreclosure; and a grant deed dated 7/13/14 from Ms. Mercado to Debtor's son as a gift. See Durzian Decl. (dkt. 51 at PDF pp. 19 *et seq.*), para. 8-15 & Ex.D-J. See *also* Duzian Decl. (similar if not identical declaration in connection with motion to dismiss - which is the declaration to which Debtor objects) (dkt. 38 at PDF pp.11 *et seq.*), para. 8-15 & Ex.B-I.

In other words, far from showing anything nefarious, the documents appear to show that \$50,906.18 of the loan proceeds were used to save the Second Property from foreclosure, which was then transferred to Debtor's son, who is now objecting to that use of funds. The documents appear to undermine completely his implication that there was anything wrong with this use of proceeds, and his omission of these facts is highly misleading. See dkt. 38, p.6 at n.3 & accompanying text.

Likewise, although Debtor's claim objection appears to be correct that a notice of default listed an incorrect dollar amount (see dkt. 51, p.13, and dkt. 56), Debtor (or her son purporting to act for her) fails to disclose that (according to the lender's uncontested allegations) this notice of default was rescinded. Debtor also provides no argument or evidence of any reasonable reliance prior to such rescission that caused Debtor any damage.

The tentative ruling is that on every ground for objecting to the claim Debtor has failed to meet her burden, after discounting false and incomplete statements. Alternatively, the tentative ruling is that even if Debtor had temporarily shifted the burden of proof back to the claimant (which she has not done), her objection has been overcome with contrary evidence and arguments by the claimant. See dkt. 51 (as amended by errata, dkt. 56), *and* dkt. 52, 53.

(f) Alternatively, there appears to be inadequate evidence that the claim objection is being advanced by anyone with standing

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This Court has an independent duty to consider issues of jurisdiction and standing. *See, e.g., Already, LLC v. Nike, Inc.*, 133 S. Ct. 721, 726 (2013). The preceding discussion has presumed that Debtor's son, who is purporting to act for Debtor, has a valid power of attorney that was granted at a time when Debtor had the mental capacity to grant a power of attorney, and that Debtor is now suffering from dementia such that it is proper for her son to prosecute the claim objection on her behalf. But, so far as this Court is aware, those things have not been established. The tentative ruling is that this is an alternative ground for denying/overruling the claim objection.

(2) Standing also appears to be an issue for the lender

The promissory note attached to the Proof of Claim (POC 5-1) is payable to "Sarla Mawar Gupta, A Widow," not Mr. Duzian or his firm. But the filed claim itself lists Mr. Duzian's firm as the creditor (although it appears to mix things up because it also states that notices should be sent "c/o" Ms. Gupta, at what appears to be a business address). The response to the claim objection attempts to reconcile these documents by stating that Mr. Duzian's firm, "in its capacity as loan servicer and authorized agent for Sarla Gupta, filed the Proof of Claim on behalf of Sarla Gupta ..." (dkt. 51, p.1, n.1, emphasis added), but that is not clear from the Proof of Claim itself.

This raises questions about who actually holds the claim, and who has standing to respond to the claim objection. This confusion is also significant because, based on the above analysis, it is important to distinguish between the lender and the loan broker who (apparently) continued to be involved in use of the loan proceeds for various purposes after the loan closed (e.g., saving the Second Property from foreclosure, paying taxes owed on that property, etc.).

The tentative ruling is that denial/overruling of the claim objection as set forth in part "(1)" of this tentative ruling is contingent on the filing of an amended proof of claim that is consistent with the explanation described above. Given the dangers of conflating Mr. Duzian and his firm with the lender, the tentative ruling is that any such amended proof of claim must be supported by declarations of Mr. Duzian and the lender, under penalty of perjury, clarifying their respective roles.

(3) Conclusion

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Chapter 13

This Court recognizes that the loan included substantial up-front fees and charges, and ended up being an expensive and temporary means for Debtor to pay off some other debts, save the Second Property from foreclosure, and allegedly attempt to engage in other transactions. Perhaps that was a bad deal (or perhaps not). But Debtor has not established that the claim "is unenforceable against the [D]ebtor and property of the [D]ebtor, under any agreement or applicable law" (11 U.S.C. 502(b)(1)), nor has Debtor established any other basis to disallow the claim. Accordingly, the claim must be allowed. 11 U.S.C. 502(b).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Rosita Bello

Represented By
Matthew D. Resnik

Movant(s):

Rosita Bello

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#10.00 Hrg re: Motion to Disallow Claim No. 4 filed by Department of Treasury - Internal Revenue Service

Docket 26

*** VACATED *** REASON: Cont. to 6/13/19 at 8:30 a.m. per stipulation (dkt. 72) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#11.00 Hrg re: Motion to Disallow Claim No. 1 filed by Cavalry SPV I, LLC as assignee of FIA Card Services, NA / Bank of America

Docket 28

Tentative Ruling:

Continue to 6/13/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 5/11/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter,

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Chapter 13

unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:19-12403 Rene Medina and Maria Medina

Chapter 13

#12.00 Hrg re: Motion to Disallow Claim No. 2 filed by Cavalry SPV I, LLC
as assignee of FIA Card Services, NA

Docket 32

Tentative Ruling:

Continue to 6/13/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 5/11/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason
(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

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cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:19-12403 Rene Medina and Maria Medina

Chapter 13

#13.00 Hrg re: Motion to Disallow Claim No. 5 filed by
LVNV Funding, LLC

Docket 37

Tentative Ruling:

Continue to 6/13/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 5/11/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason
(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

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cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:19-12403 Rene Medina and Maria Medina

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#14.00 Hrg re: Motion to Disallow Claim No. 6 filed by Discover Bank

Docket 39

Tentative Ruling:

Continue to 6/13/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 5/11/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted

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Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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2:18-12875 Angel Fernando Paz

Chapter 13

#15.00 Order directing Justin Harelik, Esq. to show cause why motion was filed with counterfactual representation

Docket 39

Tentative Ruling:

Appearances required. The tentative ruling is to impose sanctions of \$200 against Mr. Harelik, who has not filed any written response to this Court's order (dkt. 39) to show cause why Debtor's Motion for Voluntary Dismissal of Chapter 13 Case (dkt. 37) included the false representation that no motions for relief from the automatic stay had been filed. Caution: failure to appear may result in additional sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angel Fernando Paz

Represented By
D Justin Harelik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

2:13-25508 Luis Alfonso Duran and Alejandra Janeth Campos

Chapter 13

#16.00 Cont'd Status conference re: LAM motions
fr. 3/26/19

Docket 134

Tentative Ruling:

Revised Tentative Ruling for 5/16/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The mediator's report (dkt. 136) and the status report (dkt. 137 & Ex.A) indicate that the parties have settled this matter for \$16,000 in exchange for a reconveyance of the deed of trust. The parties and the Chapter 13 Trustee are directed to address whether there is sufficient cause to dispense with notice and a motion to approve the settlement. See Rule 2002(a)(3) (Fed. R. Bankr. P.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/16/19:

Appearances required. At the March 26, 2019 hearing, this Court denied the Motion to Strike (dkt. 115, 125) and the Motion for Summary Judgment (dkt. 110, 132). At that hearing, the Court ordered the parties attend mediation. An Order Assigning Matters to Mediation Program and Appointing a Mediator and Alternate Mediator (dkt. 134, the "Mediation Order") was entered on April 10, 2019. Since the Mediation Order, there has been no activity on the docket, including a report from the Mediator explaining whether or not a settlement has been reached. There is no tentative ruling, but the parties

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CONT... **Luis Alfonso Duran and Alejandra Janeth Campos** Chapter 13

should be prepared to address the status of mediation in this case. If mediation has occurred and been unsuccessful, this Court intends to set an evidentiary hearing on the underlying issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Luis Alfonso Duran

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Joint Debtor(s):

Alejandra Janeth Campos

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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2:16-24755 Gloria Elisa Galvan

Chapter 13

#17.00 Cont'd hrg re: Motion to Disallow Claim Number 13
Filed by TSDC, LLC
fr. 08/02/18, 10/02/18, 11/6/18, 01/08/19, 03/21/19

Docket 113

*** VACATED *** REASON: Stipulation to continue to 7/18/19 at 8:30
a.m., and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Michael E Clark
Nancy B Clark
Nancy B Clark
Barry E Borowitz
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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2:18-14320 Ronald G Sanchez

Chapter 13

#18.00 Cont'd hrg re: Objection to Claim 3-1 of California Uninsured Employers Benefit Trust Fund; Request that Claim be Disallowed fr. 11/29/18, 2/21/19, 03/21/19

Docket 30

Tentative Ruling:

Tentative Ruling for 5/16/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties are directed to address the status of the trial in the worker's compensation action (see dkt. 45, para 5). If the trial has not been commenced or completed, how long should this hearing on the claim objection be continued (1) for a trial in the worker's compensation action (see dkt. 38, para.5) and/or (2) for mediation?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/18:

Appearances required. The tentative ruling is (1) to continue this claim objection to 2/21/19 at 8:30 a.m., and meanwhile (2) order Debtor and the uninsured employers benefits trust fund ("Claimant") to mediation, to include, if possible, all other parties in interest, including Jorge Antonio Gomez Lopez ("Lopez") and any insurers, with a deadline of 12/11/18 to lodge a proposed mediation order.

Analysis:

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Based on the papers filed by the parties (dkt. 30, 32, 33), as well as the other filed papers and records of this Court (e.g., dkt. 16, 20, 22), the parties' disputes appear ripe for mediation. There are numerous issues that might be decided in favor or against Debtor, Claimant, and Lopez. All of those issues probably are risky and expensive to litigate.

(a) Preclusion from disallowance of Lopez' claim

As Debtor points out, this Court issued an order (dkt. 22) disallowing Lopez' claim. True, as Claimant points out, there might be grounds file a motion for reconsideration of that order. But that is far from certain and the docket does not reflect that any such motion has been filed.

Claimant argues that this Court' disallowance of Lopez' claim should not have any claim or issue preclusive effect because there was no evidentiary hearing nor any analysis by this Court of the response that, Claimant points out, Lopez filed (albeit untimely). But it is far from certain whether preclusion applies: in general, even default judgments have a preclusive effect, and the precise scope of preclusion has not been fully briefed by the parties.

(b) Possible proceedings before Workers Compensation Appeals Board (the "Board")

Claimant asserts that the Workers Compensation Appeals Board can and should adjudicate the issues, notwithstanding the fact that (i) no motion has been filed seeking relief from the automatic stay (11 U.S.C. 362(a)) for proceedings in that forum, (ii) the Board might (or might not) be bound by the preclusive effect of this Court's disallowance of Lopez' claim, (iii) the Board might (or might not) be bound by the preclusive effect of the Superior Court's grant of summary judgment in favor of Taylor, (iv) the Board might (or might not) be bound by Lopez' apparent admission in his own complaint in Superior Court that Taylor, not Debtor, was the general contractor (see dkt. 32, Ex.D, para.4), and (v) even if the Board has no constraints on its consideration of the issues, Claimant points out that the Board could reach a wide range of final determinations based on the full panoply of circumstances - e.g., that Debtor was Lopez' employer, or that Debtor was a co-employer with Taylor, or that Debtor was not Lopez' employer at all. In addition, there might be litigation over the Board's ability to join all parties; there might be appeals from whatever the Board decides; there might be complications from the roles

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CONT... Ronald G Sanchez

Chapter 13

of any insurers; etc.

In other words, all parties appear to have many battles to fight before they can prevail, and many ways that they could lose, and meanwhile the cost of litigation might make any victory Pyrrhic. Mediation seems the best approach, and this Court has the power and authority to order mandatory mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ronald G Sanchez

Represented By
David S Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

2:18-22918 Rosita Bello

Chapter 13

#19.00 Cont'd hrg re: Motion for Dismissal of
Chapter 13 Bankruptcy Proceeding
fr. 3/21/19

Docket 30

Tentative Ruling:

Tentative Ruling for 5/16/19:

Dismiss this case with a permanent bar against being a debtor in bankruptcy, subject to the bar being lifted by this Court for good cause shown, and with a concurrent 180-day bar under 11 U.S.C. 109(g)(1), all for the reasons set forth in the motion (dkt. 30), in the reply (dkt. 38), and in the supplemental reply (dkt. 54) (to Debtor's opposition (dkt. 35) and supplemental opposition (dkt. 42)), and the additional reasons set forth below. Appearances required.

This is Debtor's third bankruptcy case. Her first case (Case No. 15-bk-28648-SK) was filed on 12/8/15 and dismissed on 12/15/15 for failure to file information. (Debtor's statement of related cases, dkt.1, asserted that Debtor's signature on this earlier petition was forged; but her latest bankruptcy petition papers assert that the broker who arranged this loan persuaded her to file that bankruptcy petition, for reasons unknown. Debtor allegedly suffers from dementia, so it is unclear what her allegations are regarding this first bankruptcy case.)

Her second case (Case No. 2:17-bk-16891-NB) was filed 6/5/17. It was dismissed on 8/3/18 on a motion by the same creditor whose motion to dismiss this case is the subject of this hearing.

This third bankruptcy case was filed on 11/1/18. Debtor's proposed chapter 13 plan (dkt. 12) ignores the movant/claimant's claim.

Meanwhile, Debtor has had a State Court case pending since 2016. Apparently Debtor alleges in that proceeding, similar to her claims here, that she is the victim of elder financial abuse and fraud in the inception of the loan by movant. See SOFA (dkt. 11).

At the hearing in this matter on 3/21/19 this Court was persuaded to grant Debtor a continuance to be able to file and serve a motion to sell the subject property prior to this 5/16/19 hearing date. As of the preparation of

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Rosita Bello

Chapter 13

this tentative ruling, no such sale motion has been filed (let alone set for hearing on or before 5/16/19).

Debtor has filed an objection to the movant's claim. But, as set forth in the tentative ruling on that matter (calendar no.9, 5/16/19 at 8:30 a.m.), that claim objection appears to include material omissions and misrepresentations and the tentative ruling is to deny/overrule that claim objection and allow the claim in full. The claim objection only reinforces this Court's concern about how Debtor (and her son) have been prosecuting this case.

Brad Bellow, who identifies himself as Debtor's son acting for her under a power of attorney (dkt. 35, at PDF p.12, para. 2&4), pleads that she suffers from dementia and ill health. But assuming that is so (although this Court is not aware of evidence of those things), that only reinforces that there have been ample opportunities for either Debtor's son (after her alleged dementia) or Debtor (before the onset of any dementia) to appear in proper prosecution of these bankruptcy cases.

Debtor's son claims to have had her power of attorney since approximately August of 2018, shortly before the start of this case. *Id.* So, in addition to the second bankruptcy case (in which Debtor herself had the period from 6/5/17 through 8/3/18 to appear in proper prosecution of the case), there has been ample time in this third bankruptcy case for Debtor's son to appear in proper prosecution.

Debtor (through her son) also asserts that discovery in State Court has been hindered because the State Court "believes there is a stay in effect." Dkt. 35, p.25-27. See generally *Parker v. Bain*, 68 F.3d 1131, 1136 (9th Cir. 1995). But that is a frivolous excuse for not prosecuting the bankruptcy cases. Debtor has had a simple remedy: Debtor (through her son) could have moved for an order granting relief from the automatic stay or confirming that it does not apply (whichever relief is applicable). In addition, Debtor (through her son) had all the discovery powers available under the Bankruptcy Code and Rules. See, e.g., Rules 2004, 7026-7037, and 9014(c) (Fed. R. Bankr. P.).

Meanwhile, throughout the past several years, it appears that Debtor has been collecting proceeds from the windmills on the property, which constitute cash in which the movant claims a security interest. During her bankruptcy cases, she has done so without any authorization under 11 U.S.C. 363(c)(2).

True, Debtor asserts that she has a theory under which that cash might

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Rosita Bello

Chapter 13

not be cash collateral (11 U.S.C. 363(a)). See dkt. 35 at PDF pp.9:9-10:6. But Debtor has failed to obtain any determination by a court of competent jurisdiction that her theory is correct. Proper prosecution of her cases would have included obtaining such a determination before using any such cash. Even in this third bankruptcy case, she has not sought such a determination.

Debtor attempts to shift the burden to movant/claimant, asserting that movant has waived or forfeited its rights to cash collateral by not asserting them sooner. See dkt. 35, at PDF p.7:20-8:8 (citing *In re Czyzk*, 297 B.R. 406, 410 (Bankr. D.N.J. 2003)). The tentative ruling is to reject this attempt: the issue is whether there is cause to dismiss or convert this case (11 U.S.C. 1307(c)), including whether Debtor has failed to comply with her obligations under the Bankruptcy Code and Rules, not whether the creditor (for good or bad reasons) elected not to do Debtor's work for her. See Reply (dkt. 38) pp.8:17-9:24 (citing authorities).

The tentative ruling is that all of the foregoing constitutes bad faith and cause to dismiss this case under 11 U.S.C. 1307(c), and that dismissal rather than conversion is in the best interests of creditors because it appears that there are no assets from which a chapter 7 trustee could be paid, so conversion would only cause further delay. In addition, the tentative ruling is that the facts and circumstances set forth above establish a willful failure to appear in proper prosecution of this case. See 11 U.S.C. 109(g)(1).

The tentative ruling is also that the foregoing constitutes egregious behavior, bad faith, and an abuse of the bankruptcy system by Debtor (acting either for her self or through her son's power of attorney), and that it is appropriate to bar Debtor from being a debtor under any chapter of the Bankruptcy Code permanently, subject to lifting that bar for good cause shown. Such dismissal is one available remedy under 11 U.S.C. § 105(a), 349(a), 1307(a) and, alternatively, pursuant to this court's inherent powers to manage its own docket. See *In re Glover*, 537 Fed.Appx. 741 (9th Cir. 2013) (affirming dismissal with a five-year bar to refile under 11 U.S.C. § 105(a)); *In re Leavitt*, 171 F.3d 1219, 1222-23 (9th Cir. 1999) (affirming dismissal with prejudice based on finding of bad faith, considering whether debtor misrepresented facts, unfairly manipulated Code, or otherwise filed petition or plan in an inequitable manner; debtor's history of filings and dismissals; whether the debtor intended to defeat state court litigation; and whether egregious behavior is present).

**United States Bankruptcy Court
Central District of California
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Thursday, May 16, 2019

Hearing Room 1545

8:30 AM

CONT... Rosita Bello

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/21/19:

Dismiss this case with a 180 day bar, for willful failure to appear in proper prosecution of this case (11 U.S.C. 109(g)(1)), for the reasons stated in the motion (dkt. 30) and in the reply (dkt. 38) to Debtor's opposition (dkt. 35).
Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rosita Bello

Represented By
Matthew D. Resnik

Movant(s):

Sarla Gupta

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

2:18-24397 Eddie P Lawrence, SR

Chapter 13

#20.00 Cont'd hrg re: Objection to Proof of Claim
Number 1 by Claimant Wells Fargo Bank, N.A.
fr. 3/21/19

Docket 18

Tentative Ruling:

Tentative Ruling for 5/16/19:

Deny this objection to claim no. 2 (erroneously identified as claim no.1 in the initial claim objection) without prejudice, and abstain in favor of the pending State Court action on Debtor's complaint (see dkt. 46, 4:11-19). Debtor's recent supporting declaration (dkt. 47, p.9:24-25) states that "ALL that [he is] asking [this Bankruptcy Court] to do" is to determine if "the Creditor[']s claim is valid or if the Debtor[']s claim is valid." (Capitalization in original.) But that is the same thing he has asked the State Court to do, and abstention is appropriate for the reasons stated below. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis

The tentative ruling is that permissive abstention applies (28 U.S.C. 1334(c)(1)) under *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1167 (9th Cir. 1990).

Under *Tucson Estates*, considerations for permissive abstention include the following (with this Court's tentative rulings in brackets):

- (1) the effect or lack thereof on the efficient administration of the estate if a Court recommends abstention [it would be inefficient to re-litigate the State Court litigation, which favors abstention],
- (2) the extent to which state law issues predominate over bankruptcy

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CONT... Eddie P Lawrence, SR

Chapter 13

issues [the issues appear to be entirely matters of nonbankruptcy law, which favors abstention],

(3) the difficulty or unsettled nature of the applicable law [inapplicable],

(4) the presence of a related proceeding commenced in state court or other nonbankruptcy court [the pending State Court proceeding involves the same nucleus of operative facts, which favors abstention],

(5) the jurisdictional basis, if any, other than 28 U.S.C. 1334 [none, which favors abstention]

(6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case [Debtor's attempts to retain the house are strongly related to this bankruptcy case, but also to the State Court litigation, so this consideration is neutral],

(7) the substance rather than form of an asserted "core" proceeding [the issues are all matters of nonbankruptcy law, which favors abstention]

(8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court [it is entirely feasible to defer to the State Court, because there are no issues that are matters of bankruptcy law, which favors abstention],

(9) the burden of [the bankruptcy court's] docket [this litigation would burden this Bankruptcy Court's docket, and would be duplicative of the State Court litigation, which favors abstention]

(10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties [Debtor appears to be forum shopping, which favors abstention],

(11) the existence of a right to a jury trial [the State Court can provide the debtor with a jury trial, which favors abstention]

(12) the presence in the proceeding of nondebtor parties [if other defendants in the State Court proceeding are necessary and cannot be made subject to this Court's jurisdiction, that would favor abstention, and otherwise this consideration is neutral]. [*Tucson Estates*, 912 F.2d 1162, 1167 (citation and internal quotation marks omitted)]

Based on the foregoing, the tentative ruling is that permissive abstention is warranted.

If appearances are not required at the start of this tentative ruling but you

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CONT... Eddie P Lawrence, SR

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/21/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Procedures

Debtor's claim objection (dkt. 18-20) requests multiple forms of relief, including an award of damages of not less than \$100,000 against creditor Wells Fargo Bank, N.A. ("Wells Fargo"). It appears that an adversary proceeding may be required. See Rules 3007(b) & 7001 (Fed. R. Bankr. P.).

Debtor has not complied with various other procedures, but the tentative ruling is to excuse such non-compliance, with a caution that future non-compliance with applicable rules might result in adverse rulings. (Debtor's objection papers do not reflect proper service on Wells Fargo; Debtor did not include a copy of Wells Fargo's proof of claim and referred to claim no.1 when the correct identifier is claim no.2; etc.)

Debtor may wish to consider retaining a capable bankruptcy attorney.

(2) Creditor's request for more time

The opposition filed by Wells Fargo (dkt. 33) requests that this Court continue the hearing for 30-45 days so that it can complete its full analysis and then file supplemental papers. The tentative ruling is to grant that request by continuing this matter to 5/16/19 at 8:30 a.m., with a deadline of 5/2/19 for Wells Fargo's supplemental papers.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Eddie P Lawrence, SR Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Eddie P Lawrence SR	Pro Se
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Movant(s):

Eddie P Lawrence SR	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, May 16, 2019

Hearing Room 1545

8:30 AM

2:19-12964 John Martin Kennedy

Chapter 13

#21.00 Hrg. re: Motion to Convert Case from Chapter 13 to 11
Under 11 U.S.C. Sections 706(a) or 1112(a)

Docket 23

Tentative Ruling:

Revised Tentative Ruling for 5/15/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the opposition and request to dismiss this case (dkt. 31) filed by creditor Yunuen Campos and Debtor's reply (dkt. 32).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/15/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the opposition and request to dismiss this case (dkt. 31) filed by creditor Yunuen Campos.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

John Martin Kennedy

Represented By

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Los Angeles
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Hearing Room 1545

8:30 AM

CONT... John Martin Kennedy

Chapter 13

Jeffrey S Shinbrot

Movant(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, May 16, 2019

Hearing Room 1545

9:30 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, May 16, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:16-18347 Diana Cazares

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
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Los Angeles
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Diana Cazares

Chapter 13

Party Information

Debtor(s):

Diana Cazares

Represented By
Phillip Myer

Movant(s):

Deutsche Bank National Trust

Represented By
April Harriott
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:16-19481 Mildred Dionisio

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 67

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Mildred Dionisio

Chapter 13

Party Information

Debtor(s):

Mildred Dionisio

Represented By
Daniel King

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-15322 Crystal Gwenise Ellis

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON TRUST, NATIONAL ASSOC
vs
DEBTOR

Docket 24

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Crystal Gwenise Ellis

Represented By
Barry E Borowitz

Movant(s):

Wilmington Trust, National

Represented By
Dipika Parmar
Robert P Zahradka
Megan E Lees

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-19416 Genetha Williams

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 29

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 31).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Genetha Williams

Represented By
Brad Weil

Movant(s):

U.S. Bank National Association, as

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-21407 Jose G Garcia and Maria E. Garcia

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

BAYVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 49

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Jose G Garcia and Maria E. Garcia

Chapter 13

Party Information

Debtor(s):

Jose G Garcia

Represented By
Julie J Villalobos

Joint Debtor(s):

Maria E. Garcia

Represented By
Julie J Villalobos

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:18-18942 Bonnie Monique Tann

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 32

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Bonnie Monique Tann

Chapter 13

Party Information

Debtor(s):

Bonnie Monique Tann

Represented By
Devin Sawdayi

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:18-20659 Dejah Myles

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
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Los Angeles
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Dejah Myles

Chapter 13

Party Information

Debtor(s):

Dejah Myles

Represented By
Thomas B Ure

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:18-22059 JDS Hospitality Group LLC

Chapter 11

#8.00 Hrg re: Motion for relief from stay [RP]

BAKERS 26, LLC
vs
DEBTOR

Docket 139

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... JDS Hospitality Group LLC

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group LLC

Represented By
Christopher J Langley
Steven P Chang
David Samuel Shevitz

Movant(s):

Bakers 26, LLC

Represented By
Hagop T Bedoyan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:18-24104 Sharon Whitaker

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 37

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Sharon Whitaker

Chapter 13

Party Information

Debtor(s):

Sharon Whitaker

Represented By
Erika Luna

Movant(s):

WELLS FARGO BANK,

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-11193 Edgar R Ayon

Chapter 7

#10.00 ***[CASE DISMISSED ON 5/10/19]***

Hrg re: Motion for relief from stay [RP]

US BANKRUPTCY TRUST
vs
DEBTOR

Docket 32

Tentative Ruling:

Grant in part, continue in part to 6/4/19 at 10:00 a.m. to address the following issues. Appearances are not required on 5/21/19.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay.
See 11 U.S.C. 349(b)(3) & 362(c).

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Reasons:

(1) Service.

The motion papers were not served on the original borrower (dkt. 32 at PDF p. 54) as required under Local Bankruptcy Rule 4001-1(c)(1).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Edgar R Ayon

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edgar R Ayon

Pro Se

Movant(s):

US Bankruptcy Trust NA as trustee

Represented By
Kristin A Zilberstein

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-13944 Soon Hoon Hyun

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue,

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT...

Soon Hoon Hyun

Chapter 13

then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leaffy*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Soon Hoon Hyun

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Soon Hoon Hyun

Pro Se

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-19677 John Charles Parker, II and Patricia Lynne Parker

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

ACAR LEASING LTD
vs
DEBTOR

Docket 61

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... John Charles Parker, II and Patricia Lynne Parker

Chapter 13

Party Information

Debtor(s):

John Charles Parker II

Represented By
Julie J Villalobos

Joint Debtor(s):

Patricia Lynne Parker

Represented By
Julie J Villalobos

Movant(s):

ACAR Leasing LTD dba GM

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:18-18751 Dominick Lamar Newson

Chapter 13

#13.00 Hrg re: Motion for relief from stay [PP]

HONDA LEASE TRUST
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Dominick Lamar Newson

Chapter 13

Party Information

Debtor(s):

Dominick Lamar Newson

Represented By
Gregory M Shanfeld

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:18-21286 Jamie Lee Figueroa

Chapter 13

#14.00 Hrg re: Motion for relief from stay [PP]

PRESTIGE FINANCIAL SERVICES
vs
DEBTOR

Docket 32

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed
05/16/19 (Dkt. 35)

Tentative Ruling:

Party Information

Debtor(s):

Jamie Lee Figueroa

Represented By
Scott Kosner

Movant(s):

Prestige Financial Services, its

Represented By
Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-10118 Chelsea Elyse Okerson

Chapter 13

#15.00 Hrg re: Motion for relief from stay [PP]

KING OF CREDIT FINANCIAL, INC.
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Chelsea Elyse Okerson

Chapter 13

Party Information

Debtor(s):

Chelsea Elyse Okerson

Represented By
Kevin Tang

Movant(s):

KING OF CREDIT FINANCIAL,

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#16.00 Hrg re: Motion for relief from stay [PP]

TCF EQUIPMENT FINANCE
vs
DEBTOR

Docket 190

*** VACATED *** REASON: Order approving stip. cont'd to 6/11/19 at
2:00 p.m. [dkt. 208]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

Movant(s):

TCF EQUIPMENT FINANCE, a

Represented By
Raffi Khatchadourian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-14622 Kelly Lim

Chapter 13

#17.00 Hrg re: Motion for relief from stay [UD]

GLP KINGSLEY, LLC
vs
DEBTOR

Docket 4

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there is no evidence that Debtor participated in a scheme to delay, defraud, or hinder creditors.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Kelly Lim

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kelly Lim

Pro Se

Movant(s):

GLP Kingsley, LLC

Represented By
Joseph Trenk

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-14594 Donta Scott Candler

Chapter 13

#18.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, May 21, 2019

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10:00 AM

CONT... Donta Scott Candler

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Donta Scott Candler

Represented By
Rabin J Pournazarian

Movant(s):

Donta Scott Candler

Represented By
Rabin J Pournazarian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-14656 Kyung Hae Park

Chapter 13

#19.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 11

Tentative Ruling:

Appearances required. The parties should be prepared to address the following issues.

Analysis:

Creditor WBL SPE III, LLC ("Creditor") apparently holds a second deed of trust on the property that Debtor lists on her bankruptcy papers as the family home, at 24310 Via La Casa, Valencia, CA 91354 (the "Home"). Creditor objects that asserts that, contrary to her bankruptcy schedules, Debtor has no cognizable ownership interest in the Home. More generally, Creditor objects that Debtor has not provided complete or accurate disclosures regarding who owns the Home.

The tentative ruling is that the record is not entirely clear that Debtor lacks any interest at all in the Home; and alternatively even if Debtor lacks an interest in the Home it is not clear that this would mean the automatic stay and co-debtor stay do not apply now and (if Debtor's motion is granted) in future. But the tentative ruling is also that Creditor is correct that Debtor's bankruptcy schedules are woefully inadequate, which calls into question whether Debtor can meet her burden to establish good faith, at least as to Creditor.

(1) Whether Debtor has any interest in the property

Creditor provides copies of two grant deeds. Both apparently involve the Home, and Creditor apparently asserts a second deed of trust lien against the Home.

The first grant deed (dkt. 14, Ex. A) recites that it transfers the property from Mancuso Properties III to Debtor's non-debtor spouse "as his sole and separate property" (the "Spouse"). Normally, property acquired during the marriage is subject to the presumption of community property. *In re Marriage*

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... **Kyung Hae Park**

Chapter 13

of *Valli*, 58 Cal. 4th 1396, 1400 (2014). But spouses may transmute community property to separate property. *Id.* Although the form of the first deed itself is insufficient to establish an interspousal transfer (*id.*), that is where the second grant deed comes in.

The second grant deed is an interspousal grant deed from Debtor to Spouse, which includes the statement, "This conveyance establishes sole and separate property of a spouse" Dkt. 14-3, Ex.B, at PDF p.11. In other words, this is a transfer that appears to satisfy *Valli*, so it appears that Creditor is correct and Debtor relinquished any interest in the Home.

That said, it is possible that after the House was transferred to Spouse, community property funds were used to pay off or pay down liens on the house (as Debtor's and Spouse's last-minute declarations declare, dkt. 16 & 17), and that this or something else created an interest in the House in favor of Debtor. *See also Mejia v. Reed*, 31 Cal.4th 657 (2003) (spousal transfer can be voidable fraudulent transfer). Debtor and Spouse assert that both of them intended to own the property together.

At the very least (at least without further briefing, and perhaps evidence), this Court is not prepared to rule that the bankruptcy estate has no interest in the Home. Therefore the tentative ruling is that Creditor's first argument is not persuasive.

(2) The automatic stay and co-debtor stay are broad

This Court notes that the automatic stay and co-debtor stay apply to more than just property interests. It is not clear from Creditor's opposition (dkt. 14) whether it asserts any *in personam* claim against Debtor (as opposed to claims solely against Spouse and *in rem* claims against the Home), and on this or other grounds the stay might apply now and (if Debtor's motion is granted) in future. *See* 11 U.S.C. 362(a)(1) through (8) *and* 1301.

Accordingly, to the extent Creditor is arguing that the automatic stay does not apply, this is an alternative reason to reject Creditor's argument.

(3) But Debtor appears not to have provided candid disclosures

(a) Ownership of Home

As Creditor points out, Debtor's bankruptcy schedules (dkt. 1) do not disclose the Spouse's apparent ownership of the Home. Nor do they even disclose that Spouse is a co-debtor with respect to the debt on the Home. *Id.*

(b) Purported income

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT...

Kyung Hae Park

Chapter 13

This Court's own review of the bankruptcy schedules reveals that Debtor's Bankruptcy Schedule I, line 8a, provides woefully inadequate information about the purported means of funding Debtor's proposed chapter 13 plan. Debtor alleges that she and Spouse have been employed, for one month, by an entity called Boss Janitorial Services, Inc. But, although Debtor and Spouse apparently assert that they are employees not owners of that business, no employment income is listed. Instead Debtor lists only round numbers of \$2,000.00 and \$5,000.00 as "business" income, with no statement showing gross receipts, expenses, and calculation of net income (as required by the instructions to that form). Among other things, there is no disclosure of any employment taxes or other payroll or business deductions or expenses. In other words, the purported \$2,000 and \$5,000 of income lacks any foundation and appears to be nothing more than a hope of potential future income.

(c) Whether Debtor has met her burden to show good faith

Based on the foregoing, Debtor appears to have filed bankruptcy schedules that are very misleading if not simply wrong about the ownership of the House and whether Spouse is a co-debtor; and Debtor's Bankruptcy Schedule I provides woefully inadequate information about the purported income that is supposed to be used to fund any chapter 13 plan. Can Debtor satisfy her burden under 11 U.S.C. 362(c)(3)(B) to demonstrate that the filing of this case is in good faith, either as to Creditor or as to all creditors?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kyung Hae Park

Represented By
Matthew D. Resnik

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Kyung Hae Park

Chapter 13

Movant(s):

Kyung Hae Park

Represented By
Matthew D. Resnik
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-14674 Robby Christopher Hilliard, Jr.

Chapter 13

#20.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Robby Christopher Hilliard, Jr. Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Robby Christopher Hilliard Jr.	Represented By Scott Kosner
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Movant(s):

Robby Christopher Hilliard Jr.	Represented By Scott Kosner
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:19-15135 Bryan A Kumiyama

Chapter 13

#21.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 11

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Bryan A Kumiya **Chapter 13**

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Bryan A Kumiya

Represented By
David S Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-11281 Muriel Ann Carr

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/11/18, 1/8/19, 3/26/19;
04/30/19

CHAMPION MORTGAGE COMPANY
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 5/9/19:

Terminate the automatic stay, because Debtor has not filed an amended plan as required by the terms of the Adequate Protection Agreement of the parties (see dkt. 55). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 3/26/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the assertion by Debtor's attorney that Debtor is unable to comply with this Court's Order on Motion for Relief From Stay (dkt. 43) because her checks in payment of the tax-related debt have been returned to her with a notation that she has now overpaid that debt, and any other

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Muriel Ann Carr

Chapter 13

matters relevant to this motion. See dkt. 47.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Movant's supplemental papers (dkt. 37) assert debts for (1) reimbursement for paying real estate taxes of \$9,851.79 and (2) reimbursement for force placed insurance of \$3,912 (2 x \$1,956). The tentative ruling is (1) to require Debtor to pay the tax-related debt via a motion to modify her confirmed chapter 13 plan to amortize that debt over the remaining term of the plan, and (2) to pay the insurance-related debt via a standard adequate protection order ("APO").

(1) Real estate taxes

Debtor argues (dkt. 41) that her chapter 13 plan was intended to include when it listed movant (or its predecessor in interest) with a debt of \$33,000 (dkt. 15, confirmed by dkt. 22). But it appears that Debtor listed the wrong party with respect to taxes.

According to Movant, it did not pay those taxes until many months postpetition, on 8/28/28 (see dkt. 37, para. 20), so as of the petition date the debt was owed to the tax authorities, not Movant. Therefore Debtor should have listed the tax authorities in her chapter 13 plan.

Because Debtor did not do so, it appears that those tax debts went unpaid until Movant paid them. Meanwhile, as provided in the confirmation order (dkt. 22), Movant's proof of claim (no. 2-1) controls the monthly distributions by the Chapter 13 Trustee, and that proof of claim apparently did not include the taxes (it is for \$20,085.53, which Debtor concedes is

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Muriel Ann Carr

Chapter 13

substantially less than the \$33,000 estimated in her plan).

Based on the foregoing, it appears that the best way to restore the parties to the position they would have been if Debtor had correctly included the tax authorities in her plan is to require Debtor to file a motion to modify her plan to amortize the tax-related debt, with interest payable to Movant at the contract rate, over the remaining term of the chapter 13 plan. The tentative ruling is that Debtor must file such a motion in time to be self-calendared for hearing on the chapter 13 calendar on 2/21/19 at 8:30 a.m.

(2) Insurance

The force placed insurance appears to be for postpetition periods (and paid by Movant postpetition). Accordingly, it is a postpetition default, and a standard six month APO appears to be the appropriate remedy (with the usual cure period of 14 days after any default under the APO, and a maximum of three opportunities for any such cure). The tentative ruling is to direct Movant to prepare and lodge that APO within seven days after this hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

At the hearing on 11/27/18 this Court was persuaded to continue this matter as Debtor appeared to contest the tentative ruling and inform the Court that the property is insured. Counsel for Movant informed the Court that a declaration re insurance coverage for past period was required.

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they have resolved their issues re insurance coverage.

If appearances are not required at the start of this tentative ruling but you

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Muriel Ann Carr

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Muriel Ann Carr

Represented By
Julius Johnson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Muriel Ann Carr

Chapter 13

Movant(s):

Champion Mortgage Company

Represented By
Sean C Ferry
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-11589 Thomas Michael Moore

Chapter 13

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/9/19; 04/30/19

WELLS FARGO BANK, N.A.
VS
DEBTOR

Docket 63

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Thomas Michael Moore

Represented By
Eliza Ghanooni

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Austin P Nagel
Emily M Marchino
John Tamburo

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-24933 Maria Perez and Jose L Perez

Chapter 13

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19

BANK OF AMERICA, NA
vs
DEBTOR

Docket 39

Tentative Ruling:

Tentative Ruling for 5/21/19:
Appearances required.

At the hearing on 4/30/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms of an adequate protection order ("APO"), or if, as Debtor contends, no APO is warranted. See Response (dkt. 45).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:
Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... **Maria Perez and Jose L Perez**

Chapter 13

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maria Perez

Represented By
Nima S Vokshori
Luke Jackson

Joint Debtor(s):

Jose L Perez

Represented By
Nima S Vokshori
Luke Jackson

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Robert T Phifer
Christina J O

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Maria Perez and Jose L Perez

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:18-16735 Sarkis Minasyan

Chapter 13

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19

COMPASS ALTERNATIVE INVESTMENTS, LLC
VS
DEBTOR

Docket 44

***** VACATED *** REASON: Voluntary dismissal (dkt. 53)**

Tentative Ruling:

Party Information

Debtor(s):

Sarkis Minasyan

Represented By
Robert T Chen

Movant(s):

Compass Alternative Investments,

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:18-18736 **Raju Maity**

Chapter 13

#26.00 Cont'd Hrg re: Motion for relief from stay [RP]
fr. 12/11/18; 03/26/19

NATIONSTAR MORTGAGE, LLC
VS
DEBTOR

Docket 36

***** VACATED *** REASON: Continue to 7/2/19 at 10:00 a.m. per
stipulation (dkt. 70) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Raju Maity

Represented By
Sanaz S Bereliani

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-20136 Joyce Miller

Chapter 13

#27.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/26/19, 3/26/19, 5/7/19

US BANK TRUST NATIONAL ASSOCIATION
VS
DEBTOR

Docket 33
*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Joyce Miller

Represented By
Scott Kosner

Movant(s):

US Bank Trust National Association,

Represented By
Michelle R Ghidotti
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

2:17-18093 Edik Besha and Aida Torabian

Chapter 13

#28.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/7/19

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 44

Tentative Ruling:

Tentative Ruling for 5/21/19 (same as for 5/7/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 46).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edik Besha

Represented By
Raj T Wadhvani

Joint Debtor(s):

Aida Torabian

Represented By
Raj T Wadhvani

Movant(s):

U.S. Bank National Association as

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

10:00 AM

CONT... Edik Besh and Aida Torabian

Chapter 13

Ashish R Rawat
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01071 Richard M. Pachulski, Chapter 11 Trustee of the Ba v. Layfield

#1.00 Status conference re: Complaint to determine the nondischargeability of certain debts owed by Philip James Layfield to Richard M. Pachulski, Chapter 11 trustee of the bankruptcy estate of Layfield & Barrett, APC, pursuant to 11 U.S.C. section 523

Docket 1

Tentative Ruling:

Continue to 11/5/19 at 11:00 a.m. based on the Joint Status Report (dkt. 5).
Appearances are not required on 5/16/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip James Layfield

Pro Se

Plaintiff(s):

Richard M. Pachulski, Chapter 11

Represented By
James KT Hunter

Trustee(s):

Wesley H Avery (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

11:00 AM

CONT...

Philip James Layfield

Jeffrey I Golden
Faye C Rasch
Beth Gaschen

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01070 Hickey v. Layfield

- #2.00** Status conference re: Complaint for: 1) Determination of dischargeability of debt [11 U.S.C. section 523(a)(2)]; 2) Determination of dischargeability of debt [11 U.S.C. section 523(a)(4)]; 3) Determination of dischargeability of debt [11 U.S.C. section 523(a)(6)]

Docket 1

Tentative Ruling:

Continue to 11/5/19 at 11:00 a.m. based on the Joint Status Report (dkt. 5).
Appearances are not required on 5/16/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

Plaintiff(s):

Fred A. Hickey

Represented By
Derrick F Coleman

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

11:00 AM

CONT... Philip James Layfield

Chapter 7

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, May 21, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#3.00 **[Notice of dismissal of Deft., Wesley H. Avery, Tr.]**

Hrg re: Motion to Dismiss Adversary Proceeding

Docket 6

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#4.00 [Notice of dismissal of Deft., Wesley H. Avery, Tr.]

Status conference re: Complaint against dischargeability
1) Declaratory relief and 2) Fraudulent transfer/concealment

Docket 1

***** VACATED *** REASON: Another summons issued; Reset to 6/4/19 at
11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Pro Se

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

11:00 AM

2:18-15867 Andrew Mark Anderson

Chapter 13

Adv#: 2:18-01348 Strategic Funding Source, Inc. v. Anderson

#5.00 Cont'd Status Conference re: Complaint to
Determine Non-Dischargeability of Debt
fr. 01/08/19, 3/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to (1) address why they did not file a status report as required by this Court's adopted tentative ruling for 3/26/19, and (2) apprise this Court why their settlement agreement has not been documented and, if necessary or appropriate, why they have not filed and served a motion for approval of that settlement under Rule 9019 (Fed. R. Bankr. P.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue to 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19, in light of the parties' Joint Status Report (adv. dkt. 10). Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 5) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 1/22/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and

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that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 11/2/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 4/19/19.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 2/12/19.

Continued status conference: 2/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrew Mark Anderson

Represented By
D Justin Harelik

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Defendant(s):

Andrew Mark Anderson Pro Se

Plaintiff(s):

Strategic Funding Source, Inc. Represented By
Jeannie Kim

Trustee(s):

Kathy A Dockery (TR) Pro Se

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11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#6.00 Cont'd Status Conference re: Complaint to Determine
Nondischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18,
08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19,
4/9/19; 04/30/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #14 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#7.00 Cont'd Status Conference re: Complaint Objecting
to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18, 4/9/19; 04/30/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #13 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

Chapter 7

#8.00 Cont'd status conference re: Procedures
fr. 4/9/19; 04/30/19

Docket 332

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #12 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

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11:00 AM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#9.00 Cont'd status conference re: Procedures
fr. 4/9/19; 04/30/19

Docket 43

*** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #16 at 2:00 p.m.

Tentative Ruling:

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

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2:17-23651 Letitia Louise Wellington

Chapter 7

#10.00 Cont'd hrg re: Motion for Substantive Consolidation of the Estate of the Debtor and Nondebtor Spouse Amos Q. Wellington fr. 6/12/18, 07/17/18, 10/16/18, 03/12/19, 4/9/19

Docket 43

Tentative Ruling:

Tentative Ruling for 5/21/19:

Continue this hearing to 7/9/19 at 11:00 a.m. to complete the sale of the property underlying the parties' disputes (see dkt. 86, 94, 98, 100, 114, 135, 136). Appearances are not required on 5/21/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Continue this hearing to 5/21/19 at 11:00 a.m. to complete the sale of the property underlying the parties' disputes (see dkt. 86, 94, 98, 100, 114, 135, 136). Appearances are not required on 4/9/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18 (same as for 7/17/18):

Appearances required but telephonic appearances are encouraged if

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CONT... **Letitia Louise Wellington**

Chapter 7

advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 7/17/18 and 6/12/18 hearings, this Court continued the matter for the parties to explore various options. There is no tentative ruling, but the parties should be prepared to inform the Court about the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the papers (dkt. 43, 56, 57).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

Michael D. Madison Sr.

Represented By
Stella A Havkin

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Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

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1:00 PM

2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

**#1.00 Hrg re: Motion to Reopen Chapter 11
Case to File Adversary Complaint**

Docket 177

***** VACATED *** REASON: Withdrawal of Notice of Hearing Filed
05/03/19 (Dkt. 190)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

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1:00 PM

2:18-16732 Motiv8 Investments, LLC

Chapter 11

#2.00 Hrg re: Motion for Order Determining Value of Collateral Creditor 1) Del Toro Loan Servicing Inc. 2) Los Angeles County Tax Collector

Docket 137

***** VACATED *** REASON: Continue to 7/2/19 at 1:00 p.m. (NOT 11:00 a.m.) per the parties' stipulation and this Court's order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

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1:00 PM

2:18-16732 Motiv8 Investments, LLC

Chapter 11

#3.00 Hrg re: Motion for Order Determining Value of Collateral
Creditor: 1) WRCOF Asset Trust 2017-2 2) Los Angeles
County Tax Collector

Docket 138

Tentative Ruling:

Please see tentative ruling in status conference (cal. no. 4, 5/21/19 at 1:00
p.m.)

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/10/18, 9/18/18, 10/2/18, 11/27/18, 02/05/19,
2/26/19, 03/05/19; 04/02/19, 5/7/19

Docket 8

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Motion to Value Cahuenga Property (dkt. 138)

Deny for the reasons stated in the opposition filed by WRCOF Asset Trust ("WRCOF"). Dkt. 145.

Proposed order: WRCOF is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

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Chapter 11

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) General status

Debtor was ordered to file a status report no later than April 30, 2019. As of the preparation of this tentative ruling, no such report has been filed. Should this Court impose sanctions?

Debtor's prior status report (#5, dkt. 128) states that Debtor has no unsecured debt and "will seek refinancing of its assets and/or the sale of properties in order to pay off the entire debt of the Las Flores Property and fund a confirmable Chapter 11 Plan." Dkt. 128, p.2:17-20. This Court previously presumed that Debtor was focused on sales, because refinancings appear to be unrealistic. But now Debtor's principal declares (dkt. 139, p.4, para.4-5) that he is currently in negotiations with potential lenders to refinance two of Debtor's three properties which "will pay" all secured debt against the properties. That appears to be entirely unrealistic.

Debtor has almost no funds: it reports only \$50.01 as of 3/31/19 in its latest Monthly Operating Report ("MOR"). See MOR#10 (dkt. 136), p.1. Apart from that, Debtor has three properties:

(i) Las Flores/Altadena Property. This property is supposed to have been sold for \$850,000. See dkt. 129. That is unlikely to generate any useable proceeds because this \$850,000 is subject to a real estate broker's commission of \$17,000, real estate taxes estimated at over \$18,000, and the claim of Crescent Capital Holdings, LLC ("Crescent") of \$763,832.42 as of the petition date plus alleged postpetition interest for one year at 29.99%. See dkt.110, p.4:10-17, dkt. 129, and POC 3-1. Although interest above the non-default rate will not be presently distributed to Crescent, nor will it be distributed to Debtor (until after resolution of any claim objection, or other order of this Court).

(ii) Cahuenga Park Property. Debtor values this property at \$900,000. Dkt. 30, p.3. Creditor WRCOF Asset Trust 2017-2 ("Cahuenga Trust") asserts a secured claim of \$811,295.30 as of the petition date, plus postpetition interest for almost a year at 12%. POC 4-1. After the balance of unpaid real estate taxes (POC 5-1 for over \$65,000), this property is unlikely to have any useable equity.

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(iii) Date Property. Debtor values this property at \$800,000 (dkt. 30, p.3). No proof of claim has been filed by the holder of the loan debt secured by this property. Debtor estimated this claim at \$532,000 as of the petition date (dkt.15 at PDF p.9), but given Debtor's wildly inaccurate estimation of other claims (\$627,497.80 against the Cahuenga Park Property, and \$695,831.34 against the Los Flores/Altadena Property) this Court is not persuaded that there is any useable equity in this property.

The bottom line is that any expectation of being able to refinance these properties appears, on the present record, to be unrealistic and a waste of time. Apparently any refinancing would be preconditioned on successful prosecution of claim objections, but nearly a year into this case no claim objections have been filed, let alone successfully prosecuted. See, e.g., dkt. 139, p.2:21-22 (Debtor's admits it has no equity in the Cahuenga Park Property based on the "alleged balance" of the secured claim against that property).

Debtor's only plausible path appears to be to sell the properties; pay the undisputed portion of the secured claims; and, if there are legitimate grounds to do so at this late date, prosecute claim objections.

(b) Crescent's Motion for Relief from Stay (dkt. 78)

Has the sale of the Las Flores/Altadena Property closed? If so, what dollar amount is being held in escrow pending determination of Crescent's claim? What deadline should this Court set to file its objection to Crescent's claim?

(b) Cahuenga Trust's Motion for Relief from Stay (dkt. 134)

What dollar amount of monthly adequate protection payments should be required (see dkt. 134 & the debtor's late-filed response, dkt. 139)? How can Debtor afford to pay that, given the lack of funds reflected in the latest MOR (dkt. 136)? Has Debtor been receiving rents, and are any rents reflected in the MORs?

(c) March MOR (dkt. 136)

This Court is concerned with several items in the March MOR. First, Debtor reports that it did not pay an adequate protection payment of \$5,200 to Triumph Capital. Dkt. 136, p.23. Second, Debtor reports being behind \$975 on UST quarterly fees. *Id.* at PDF p.15. Debtor should be prepared to address these issues.

(2) Deadlines/dates. This case was filed on 6/11/18.

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Motiv8 Investments, LLC

Chapter 11

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m., brief status report due 5/28/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Closing of sale (per Order, dkt. 129)

Debtor's status report (dkt. 128) does not state how soon the approved sale will close. When is it scheduled to close?

(b) Motion for Relief from Stay (dkt. 78)

If there is a satisfactory answer to how soon the sale will close, the tentative ruling is to continue this motion to the same time as the continued status conference to allow time for the sale to be completed and for Debtor to pay approximately \$645,707.28 to Crescent (\$870,885 payoff demand, per dkt. 128, p.3:14, minus amounts to be held aside pending resolution of forthcoming claim objection: approximately \$200,177.72 in default interest and \$25,000 balloon fee).

(c) Forthcoming claim objection

How soon will this be filed?

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

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(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/7/19 at 1:00 p.m., brief status report due 4/30/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required.

(1) Current issues

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

The parties must inform the Court as to the status of the Mr. Vasquez and the bankruptcy estate having separate real estate brokers (or Mr. Vasquez proceeding without a broker); how any brokers will split the 4% commission; and the other issues laid out by the Court in the tentative ruling for the 2/26/19 hearing. The tentative ruling is that the sale cannot be approved until a broker is authorized to represent the estate in the sale.

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying any attorney fees out of escrow, or paying the real estate brokers until those brokers are actually retained, but overrule those objections to the extent they object to paying costs of sale, including real estate brokers, ahead of Crescent.

(ii) Payment of the portion of Crescent's claim that is not (yet) disputed, and real estate taxes

The parties should be prepared to address whether a new closing

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statement has been generated to update the amount to be paid to Crescent and to show that real estate taxes will be paid out of escrow.

(iii) "Good faith" finding

If Mr. Vasquez files a declaration that comports with Judge Bason's procedures before the proposed order approving the sale is lodged, then the tentative ruling is to include a good faith finding in that order.

(iv) Approval of sale

Subject to all the foregoing (including that a broker must be retained before the sale can be approved), the tentative ruling is to approve the sale.

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued status conference to allow time for the sale to be completed.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m., brief status report due 4/23/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues (dkt. 111 etc.)

Debtor's proposed sale of certain real estate is intertwined with Debtor's proposed employment of a real estate broker. The tentative ruling is to go forward with the sale hearing, including any overbids, and approve the sale on a provisional basis, with a continued hearing on both the employment

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application and the sale motion at the same time as the continued status conference (see below).

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

As pointed out by both the United States Trustee ("UST") (dkt. 104) and creditor Crescent Capital Holdings ("Crescent") (dkt.110), Mr. Gallardo is purporting to act as a dual agent, for both the seller (Debtor) and the proposed buyer (subject to overbids), Luis Vasquez. Judge Bason prohibits dual agency, as noted both in his posted Procedures (available at www.cacb.uscourts.gov) and in the order approving the prior real estate broker (dkt. 92) (Mr. Leal).

The tentative ruling is that the lack of dual agency is mandated by the disinterestedness requirements of the Bankruptcy Code and Rules, so it cannot be waived. It is irrelevant that, outside of bankruptcy, it is not uncommon for parties in real estate transactions to accept their agent's lack of disinterestedness. See Reply to Sale Motion (dkt. 115, p.3:10-21).

Accordingly, the tentative ruling is that, if the highest and best bid is that of Mr. Vasquez, then Mr. Vasquez must file a declaration confirming that he has retained his own real estate broker (who must be unaffiliated with Mr. Gallardo), and Mr. Gallardo must represent only Debtor and the bankruptcy estate (not Mr. Vasquez).

In addition, the parties are directed to address whether Mr. Gallardo and/or Debtor's counsel must pay the additional real estate broker out of either (i) a portion of the 4% commission that was to have been paid solely to Mr. Gallardo, or (ii) out of a reduction in Debtor's counsel's attorney fees, so that the bankruptcy estate is not prejudiced by Debtor's non-compliance with the prohibition on dual agency. In other words, should this Court order that the total commission to all real estate brokers combined must not exceed 4%?

In addition, there might be other grounds for objecting to Mr. Gallardo's employment, and the time for objections has not yet expired, so the employment cannot be approved yet. The employment application was served on 2/12/19, which means that objections can be filed until 3/1/19 (14 days plus 3 for service via U.S. mail). Until after that date, parties in interest and this Court will not know if, for example, someone were to object to Mr. Gallardo's employment and the proposed sale on the basis that Mr. Gallardo had an undisclosed interest in the sale.

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The tentative ruling is that until Mr. Guillardo's employment is approved, the sale must be only provisionally approved. The tentative ruling is that it is appropriate to shorten time (Rule 9006, Fed. R. Bankr. P.) because there is a substantial risk in any bankruptcy sale that if the sale is deferred then prospective purchasers may be unable or unwilling to continue to bid on the property (this Court takes judicial notice that there are considerable costs in holding a proposed sale open, if it is even possible to retain enough funds on hand to close a sale that has been deferred).

For all of the foregoing reasons, the tentative ruling is to set the employment application for hearing at the same time as the continued sale motion and continued status conference (see below).

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Continued hearing

The tentative ruling is to approve the sale (subject to overbids) on a provisional basis, with a continued hearing at the same time as the continued status conference (see below). Between now and that continued hearing, Mr. Vasquez must arrange for a separate real estate broker to represent him (or must proceed without any real estate broker), and must disclaim any reliance on any past representation by Mr. Guillardo and any present representation by him. In addition, the parties can take whatever steps may be appropriate to address the issues set forth below.

(ii) No approval or payment of attorney fees at this time

The tentative ruling is to sustain the objection of the UST (dkt. 104), joined in by Crescent (dkt. 110), that attorney fees must be subject to approval by this Court pursuant to the usual procedures, and that any approval of the proposed sale shall not be deemed to be approval of the attorney fees. The tentative ruling is that the proposed attorney fees must be held by Debtor's counsel in a separate account from which funds cannot be released without further order of this Court (a "Blocked Account"). In addition, the tentative ruling is to defer any ruling on Crescent's objection that it should be paid in full before any attorney fees are allowed (dkt. 110, p.5:24-25), because the timing of any distribution of attorney fees can be addressed in connection with allowance or disallowance of those fees.

(iii) Payment of real estate taxes

Crescent objects (dkt. 110, pp.4:24-5:14) that LA County's claim for

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real estate taxes, estimated to be \$18,456.38, is of a lower priority than Crescent's own claim and therefore should not be paid until Crescent is paid in full. The parties are directed to address (x) whether the real estate taxes are in fact of a lower priority than Crescent's lien, (y) whether any doctrine of marshaling should apply (*i.e.*, whether, even if Crescent's lien is of a higher priority in this property, its claim should be paid from the sale of any other property of the estate so that LA County can be paid out of this sale, or alternatively whether LA County is entitled to a replacement lien on other property so that it is not prejudiced by the fact that this property is being sold prior to other properties), and (z) whether any disputed funds that Debtor proposes to pay either LA County or Crescent must be held in the Blocked Account pending further order of this Court.

In addition, the parties are directed to address how any accruing interest affects the analysis. For example, if funds are held in a Blocked Account pending resolution of the competing claims of LA County and Crescent, will those claims continue to accrue interest at the rate that otherwise would apply (*e.g.*, 18% or 29.99% or some other high rate), or only at the rate that is being paid by the bank at which the Blocked Account is maintained (*e.g.*, 1%)?

The parties also are directed to address what will happen if the funds are distributed to LA County (to stop interest running) but later turn out to be payable to Crescent or the bankruptcy estate. Will LA County be subject to a disgorgement order, consistent with any sovereign immunity analysis?

(iv) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying the real estate brokers until those brokers are actually retained. But the tentative ruling is to overrule Crescent's objection to the extent it is seeking to bar paying of any costs of sale, including real estate brokers, until it is paid in full, because those costs are properly chargeable out of Crescent's collateral. See dkt. 110, p.4:5-7; 11 U.S.C. 506(c).

(v) Payment of the portion of Crescent's claim that is not (yet) disputed

Crescent objects that Debtor has had considerable time in which to file any objection to its claim, but has yet to do so, and that the only portion of its claim as to which an objection has been outlined is the default interest. The tentative ruling is that this objection is well taken: not until 2/13/19 did Debtor

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assert that it would object to Crescent's claim on the additional ground of not fully funding the construction loan. See dkt. 114, p.4, para.7; dkt. 115, p.4:24-26. The tentative ruling is that this last minute suggestion of a possible type of claim objection is insufficient to support Debtor's proposal to withhold all distributions from Crescent.

In other words, the tentative ruling is that Debtor must pay all principal and non-default interest through the date of closing of escrow, plus all other charges included in the proof of claim, without prejudice to Crescent seeking additional charges and default interest, and conversely without prejudice to Debtor objecting at a later time to any charges (other than principal and non-default interest). This means that Debtor would have to pay out of escrow not only principal and non-default interest but also any attorney fees, late fees, or other charges included in the Proof of Claim, and Crescent subsequently could seek additional attorney fees and other charges, but Debtor subsequently could object both to any attorney fees and other charges that have already been distributed and to any new attorney fees and other charges.

The foregoing tentative ruling attempts to balance Debtor's broad rights to object to claims at any time against Debtor's unexplained delay in raising these issues, and against Crescent's rights (consistent with this Court's adequate protection order) to receive distributions without undue delay.

Debtor's latest closing statement (dkt. 114, Ex.A, at PDF p.6) lists the "Loan Payoff" as "To Be Determined" but with an (estimated) amount of \$512,500. Crescent is directed to address at the hearing the approximate dollar amount that will comport with the foregoing tentative ruling.

(vi) "Good faith" finding

The tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any

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consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders. [Judge Bason's posted Procedures, available at www.cacb.uscourts.gov]

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued hearing on the Sale Motion.

(d) Motion for 2004 Examination (the "2004 Motion," dkt. 106)

Grant in part and deny in part as follows. The tentative ruling is to exercise this Court's discretion to limit discovery in keeping with the general principles set forth in Rule 26(b) and 45(d)&(e) (Fed. R. Civ. P.) and Rules 7026, 9016 and 9018 (Fed. R. Bankr. P.). Without limiting the foregoing, this Court is particularly aware that (i) although Debtor has yet to file any actual objection to Crescent's claim, that is clearly contemplated; (ii) Crescent has an interest in maintaining the confidentiality of its loan-analysis methodology; and (iii) Debtor has not shown that it lacks its own records on many of the issues on which it seeks discovery and that the relative burdens and benefits weigh in its favor.

The tentative ruling is that no later than 3/15/19 Crescent must produce the documents listed below (the list is excerpted from the 2004 Motion) and that Crescent's person most knowledgeable about the subject matter of those document requests must appear for examination at Debtor's bankruptcy counsel's law offices on 4/5/19 at 10:00 a.m. The document requests/subject matter that this Court tentatively will allow is as follows:

- (1) "ALL COMMUNICATIONS between YOU and the DEBTOR RELATING TO THE \$500,000 LOAN" (dtk. 106, PDF p.23, Section A.6)
- (2) "ALL DOCUMENTS, including COMMUNICATIONS, RELATING TO YOUR assessment of the default interest rate with respect

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- ot he \$500,000 LOAN" (*Id.* at PDF p.24, Section A.11)
- (3) "ALL DOCUMENTS referring or relating to YOUR calculations of damages that YOU would sustain in the event of any default under the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.17)
 - (4) "ALL DOCUMENTS referring or relating to YOUR analysis of the appropriate default interest to apply to the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.18)
 - (5) "ALL DOCUMENTS referring or relating to YOUR efforts to arrive at a default interest rate that was intended to compensate YOU for actual anticipated damages that would result from a default under the \$500,000 LOAN" (*Id.* at PDF p. 25, Section B.22)
 - (6) "All appraisals or title reports completed RELATING TO the REAL PROPERTY" (*Id.* at PDF p.26, Section B.26)

The tentative ruling is, notwithstanding Debtor's reply (dkt. 117), to sustain Crescent's objections (dkt. 109) to the remaining questions, without prejudice to Debtor seeking further discovery (either under Rule 2004 or under other discovery rules, as appropriate) based upon a proper showing. For example, as noted above Debtor now contemplates that it might object to Crescent's claim based on Crescent not fully funding the construction loan, but Debtor provides no information about the facts and circumstances, which might assist Crescent and this Court to evaluate whether discovery is or is not focused on relevant issues.

Did Crescent promise to fund the loan with no strings attached, or did it impose performance metrics, or was the remaining funding within Crescent's sole discretion? What dollar amount did Crescent refuse to fund? When did it do so? What reasons, if any, did it give? Is Debtor contemplating a breach of contract objection, or a tort claim, or both?

In addition, the tentative ruling is to overrule Crescent's remaining objections as follows:

(i) LBR 2004-1(a): While the conference between Debtor and Crescent may not have been productive (dkt. 109, p.2), this Court is satisfied that for present purposes, the parties have "attempt[ed] to confer" as required by LBR 2004-1(a).

(ii) LBR 9013-1: Although the amount of notice of Debtor's 2004 Motion was short, Crescent has not shown that it was prejudiced by such shortened notice. The tentative ruling is to excuse any untimeliness in the

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2004 Motion.

(iii) Laches: Crescent has not alleged sufficient delay to persuade this Court that relief based on laches is appropriate.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/5/19 at 1:00 p.m., no written status report required

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). Once again, the bar date order has not been served. But in view of Debtor's substitution of new counsel, the tentative ruling is to set yet another new bar date as set forth below.

(b) Advantage Realty Group Attempted Sale Properties. The parties should be prepared to address the status of any contemplated marketing and sale of properties.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set to 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

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(c) Continued status conference: 2/5/19 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). The order directs the debtor to serve all parties in interest no later than 7/16/18 but no proof of service appears on the docket. Why not? The tentative ruling is to set a new bar date of 12/7/18 (the debtor should not serve any notice at this time; this Court will prepare and issue the order after the hearing).

(b) Application to Employ Hector Perez/Advantage Realty Group (dkt. 33). There is no tentative ruling, but the parties should be prepared to address (1) the issues raised in the opposition by Crescent Capital Holding LLC (dkt. 45); (2) whether the debtor is seeking to employ Mr. Perez, or

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Advantage Realty Group, or both; and (3) the absence of Local Form 2014-1 (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov).

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set see above.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/16/18 at 1:00 p.m., *brief* status report due 10/4/18

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18:

Appearances required by counsel for the debtor and by the debtor itself.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 18) and other relevant documents.

(a) Status Report. Debtor used an old form of status report. Judge Bason's current posted procedures require the use of local form F 2081-1.1.C11.STATUS.RPT. Counsel is directed to review Judge Bason's posted procedures and to use the appropriate form status report in future.

(b) Motion for relief from automatic stay. There is no tentative ruling, but the debtor and Crescent Capital Holding LLC should be prepared to address the issues raised in the motion (dkt. 17) and debtor's response (dkt. 21) regarding the Las Flores property, including the previous grant of "in rem" relief against the property, and whether the debtor has provided sufficient evidence of insurance on the property.

(2) Deadlines/dates. This case was filed on 6/11/18.

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- (a) Bar date: 9/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
- (b) Plan/Disclosure Statement*: file by 9/28/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
- (c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#5.00 Hrg re: First Application of Margulies Faith LLP, Bankruptcy Counsel for Debtor and Debtor-in-Possession, for Interim Allowance and Payment of Compensation and Reimbursement of Expenses for Period February 20, 2019 through March 31, 2019

Docket 175

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 7, 5/21/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#6.00 Hrg re: Application to Employ Standard Mortgage, Inc.
dba Standard Realty as Real Estate Broker and to Enter
into Exclusive Listing Agreements

Docket 164

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 7,
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Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Debtor's counsel's fee application (dkt. 175, 177)

Allow \$145,683.50 in fees and \$5,714.10 in expenses for a total of \$151,397.50, and authorize draw down of the retainer (\$124,846.70 remaining), with the balance of the fees and expenses to paid from the estate.

Cathay Bank's response (dkt. 207) does not object to allowance of the fees but seeks to reserve all rights it might have regarding a purported lien on some of the retainer. Debtor's reply (dkt. 215) asserts that the bank has no such rights to reserve because it has been given a replacement lien on the real estate.

This Court's recollection is that the bank did not entirely waive such rights at the hearing on 5/7/19, but did indicate that it was no more going to seek disgorgement from Debtor's firm (of authorized postpetition distributions from the retainer account) than it would seek disgorgement from one of Debtor's utilities (of authorized postpetition utility payments). In any event, whatever the parties' interpretations of the representations on 5/7/19, the issue is too remote for either party to be expending any substantial attorney fees on it at this time.

Cathay Bank has its security interest in the accounts receivable that existed as of the petition date, and it has replacement liens in ongoing accounts receivable. Debtor believes the bank will be paid in full out of those things. But as adequate protection (11 U.S.C. 361, 363(e) & 552(b)) the bank has replacement liens in Debtor's real estate - to cover both (i) any diminution in the value of its security interest in the accounts receivable as of the petition date and (ii) any diminution in the value of its purported security interest in the

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retainer as of the petition date. Therefore the bank's and Debtor's rights are both reserved, and neither party should be spending much time on this issue. Any attorney fees spent arguing about this issue are subject to this Court's review for reasonableness (under 11 U.S.C. 330 and 331 for Debtor's counsel, and under 11 U.S.C. 506(b) for Cathay Bank's counsel).

(b) Application to employ real estate broker (dkt. 164)

The tentative ruling is, with one exception, to overrule the objection of Cathay Bank (dkt. 199), based on Debtor's reply (dkt. 214). The exception is that, although Debtor has presented evidence of the reasonableness of the broker's proposed commission and experience, and this Court generally should defer to Debtor's business judgment, Cathay Bank makes a good point that the real estate at issue ranges broadly from a single family residence to commercial property etc., and there is insufficient evidence of the proposed broker's specific experience as to each type of real estate. The tentative ruling is to set a **deadline of 5/24/19** for Debtor to file and serve a supplemental declaration detailing such experience, with a **deadline of 5/29/19** for any supplemental objection by Cathay Bank, and a continued hearing (if there is any such objection) concurrent with the continued status conference (see below).

As for disinterestedness (11 U.S.C. 101(14), 327(a)), Cathay Bank argues that the broker is not disinterested because, from the information on the docket, it appears that one of its alleged employees (Mr. Akbari) is a relative by marriage of one of Debtor's principals, and the principals are beneficiaries of a trust that engaged in prepetition transactions with Debtor that, according to the bank, violated Debtor's covenants with the bank. On the one hand, it is true that Mr. Akbari previously declared that he was "employed" by the broker (dkt. 77, p.1:22).

On the other hand, this Court interprets that as an (unfortunately) imprecise description of his arrangement as an independent contractor. Alternatively, even if he is an employee, this Court is not persuaded that this disqualifies the broker from employment by the estate.

Mr. Akbari apparently is married to the sister of the wife of one of Debtor's officers/control persons. The tentative ruling is that this makes him related "by affinity or consanguinity" within the fourth degree (1.officer - 2.spouse - 3.sister of spouse - 4.Mr. Akbari), so he is not a "relative" within the meaning of 11 U.S.C. 101(45) and therefore he is not an "insider" within

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the meaning of 11 U.S.C. 101(31)(B)(vi) or (E). That is not dispositive, because, the statutory list of insiders "includes" but is not limited to the listed examples. See 11 U.S.C. 102(3). But the tentative ruling is that the connection has been sufficiently disclosed (Rule 2014, Fed. R. Bankr. P.) and is not disqualifying.

In practical terms, this Court does not perceive that any alleged ties between the proposed real estate broker and Debtor's principal creates any incentive to lessen the price obtained for the real estate, or otherwise prejudice the interests of the bankruptcy estate. Accordingly, the tentative ruling is to approve the employment, subject to satisfactory supplemental evidence as set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: The tentative ruling is to vacate any deadline to file a proposed plan and disclosure statement, given the current posture of this case.

(c) Continued status conference: 6/4/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 5/7/19:
Appearances required.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to

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draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week without further authorization of this Court. (To be clear: if Debtor in its business judgment believes that it must incur more than that amount of professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

(c) Cathay Bank's adequate protection: replacement liens v. cash payments

The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a

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later time).

(c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

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(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

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(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate declaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

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(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors

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granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding

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363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

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(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (see, e.g., *In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (e.g., were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

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2:15-11029 R&J Limited Partnership and JRJ Limited Partnership

Chapter 11

#8.00 Hrg re: Motion for Order Authorizing the Sale of the Estate's Interests in Real Property Located at 675 East Wardlow Rd., Long Beach, CA Free and Clear of All Claims, Liens, and Interests Pursuant to 11 U.S.C. § 363

Docket 352

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 9, 5/21/19 at 1:00 p.m.)

Party Information

Debtor(s):

R&J Limited Partnership

Represented By
Vanessa M Haberbush
David R Haberbush

JRJ Limited Partnership

Represented By
Vanessa M Haberbush
David R Haberbush

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#9.00 Cont'd Status Conference re: Chapter 11 Case
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07/07/15, 07/28/15, 09/01/15, 09/22/15, 11/17/15, 12/15/15,
01/19/16, 02/23/16, 03/22/16, 05/31/16, 07/19/16, 09/27/16,
11/29/16, 01/10/17, 04/25/17, 06/20/17, 10/17/17, 01/30/18,
04/10/18, 05/08/18, 06/07/18, 07/10/18, 08/07/18, 9/4/18,
10/9/18, 11/6/18, 01/08/19, 3/26/19

Docket 9

Tentative Ruling:

Tentative Ruling for 5/21/19:
Appearances required.

(1) Sale motion (dkt. 352)

Grant, subject to overbids at the hearing, and also subject to any Court-approved settlement (see dkt. 364) between Debtor and Bayview Loan Servicing, LLC ("Bayview"), for the reasons set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis

(a) Broker's dual representation

Debtor's motion provides that Mr. Renteria represents both the proposed buyer and the seller, the Debtor, in this transaction. Dkt. 352, at PDF p.18:2-5. The tentative ruling is that, although Judge Bason normally disapproves dual agency, that restriction will not apply to the post-confirmation reorganized Debtor.

(b) Sale free and clear

Section 363(f) provides that

The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

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- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such [entity](#) consents;
- (3) such interest is a [lien](#) and the price at which such property is to be sold is greater than the aggregate value of all [liens](#) on such property;
- (4) such interest is in bona fide dispute; or
- (5) such [entity](#) could be compelled, in a [legal](#) or equitable proceeding, to accept a money satisfaction of such interest.

The tentative ruling is that the property may be sold free and clear of the following interests in the property:

- (i) Allco Enterprises Inc. dba Allco Leasing's lien pursuant to section 363(f)(4), because its U.C.C.-2 continuation statement has expired (dkt. 352, at PDF pp. 21-22).
- (ii) Bayview Loan Servicing, LLC's lien pursuant to section 363(f)(2) in view of the parties apparent settlement (dkt. 364). (Unless the settlement falls through, this Court intends to express no view on whether Bayview's interest is in bona fide dispute within the meaning of 11 U.S.C. 363(f)(4) (see dkt. 352, at PDF p.20).
- (iii) Epps & Coulson, LLC's lien pursuant to section 363(f)(2) because it apparently has consented to the sale (dkt. 352, at PDF p. 20).
- (iv) All other interests pursuant to section 363(f)(5), and the following analysis from the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov):

§ 363(f): Sales free and clear. Regarding § 363(f)(5), Judge Bason does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under that statute whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, Judge Bason has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re*

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Jolan, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See Cal. Code Civ. Proc. ("CCP") § 564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)).

(2) Status conference

The tentative ruling is to continue this post-confirmation status conference to 8/20/19 at 1:00 p.m., with no written status report required. This Court anticipates that it will issue a tentative ruling, shortly prior to that time, further continuing the status conference if there is no activity on the docket that appears to warrant a status conference at that time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue to 5/21/19 at 1:00 p.m., with no status report required, in view of the latest status report (dkt. 346) and notice of sale (dkt. 347). Appearances are not required on 3/26/19.

This Court has reviewed the Debtor's latest filed documents, including its

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Monthly Operating Reports (dkt. 343, 345) and Status Report (dkt. 346). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

R&J Limited Partnership

Represented By
Vanessa M Haberbush
David R Haberbush

JRJ Limited Partnership

Represented By
Vanessa M Haberbush
David R Haberbush

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2:18-16114 Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

#10.00 Hrg re: Motion to Dismiss Chapter 11 case

Docket 83

Tentative Ruling:

Please see tentative ruling in status conference (cal. no. 12, 5/21/19 at 1:00 p.m.).

Party Information

Debtor(s):

Ricardo Edmundo Lengua

Represented By
John A Harbin

Joint Debtor(s):

Pamela Lorraine Lengua

Represented By
John A Harbin

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Chapter 11

#11.00 Hrg re: Application for payment of
final fees and/or expenses

Docket 85

Tentative Ruling:

Please see tentative ruling in status conference (cal. no. 12, 5/21/19 at 1:00 p.m.).

Party Information

Debtor(s):

Ricardo Edmundo Lengua

Represented By
John A Harbin

Joint Debtor(s):

Pamela Lorraine Lengua

Represented By
John A Harbin

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Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

1:00 PM

2:18-16114 Ricardo Edmundo Lengua and Pamela Lorraine Lengua

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/26/18, 08/14/18, 10/16/18, 11/27/18, 12/11/18,
1/29/19, 2/26/19, 4/9/19

Docket 6

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current Issues

(a) Motion to Dismiss (dkt. 83)

Grant.

(b) Application for Final Fees and Expenses (dkt. 85)

The Application for Final fees and Expenses shall be granted in the amount of \$24,600 in attorney's fees and \$1,037.70 in expenses for a total of \$25,637.70

Proposed orders: Debtors are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances are not required on 4/9/19. Continue as set forth below.

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Chapter 11

(1) Current issues

(a) This Court has reviewed the Debtors' latest filed documents, including its Monthly Operating Report (dkt. 81) and Status Report (dkt. 82). Pending the receipt of the final closing statement, counsel's fee application, and Debtors' future motion to dismiss, this Court is unaware of any issues requiring a status conference at this time.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/21/19 at 1:00 p.m. Status report due 5/14/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances are not required. Continue as set forth below.

(1) Current issues

(a) This Court has reviewed the Debtors' latest filed documents, including its Monthly Operating Report (dkt. 80) and Status Report (dkt. 79). This Court is not aware of issues that would warrant a status conference at this time.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 4/9/19 at 1:00 p.m. Status report due

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4/2/19.

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/18:
Appearances are not required.

(1) Current issues

(a) Motion to Refinance (dkt. 68). Grant, subject to the conditions in Citibank's Non-Opposition (dkt. 74) and subject to any proposed payment of debtors' attorney fees being held in a trust account with no distributions absent further order of this Court.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 2/26/19 at 1:00 p.m. Status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Chapter 11

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to Use Cash Collateral (dkt. 57). Withdrawn (dkt. 69).

(b) Proposed refinance. The refinance motion (dkt. 68) was not filed until 12/3/18 - almost half a year after this case was filed: why was it not filed sooner? The motion fails to include the mandatory notice of hearing, objection deadlines, etc. The motion contemplates that the sale will close in January of 2019, but it lists a hearing date of 1/29/19 at 1:00 p.m., which would give almost no leeway to close in January after the hearing: why was the hearing self-calendared so far out? The motion admits that the payoff amounts will increase by then: will the refinance provide sufficient funds to pay all liens in full? The escrow statement contemplates a payment of \$30,000 to Debtors' counsel: any such payment must be held in a trust account unless and until approved by this Court. The tentative ruling is to continue this status conference for one week to see if these issues have been corrected, with a warning to counsel for Debtors that there likely will be consequences to his continued disregard for the rules and procedures of this Court, including a reduction in fees.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 12/18/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to Use Cash Collateral. Grant on an interim basis, as set forth in the tentative ruling in calendar no. 11 (11/27/18 at 1:00 p.m.).

(b) Proposed refinance. At the status conference on 10/16/18, Debtors' counsel anticipated filing a motion for a refinance very shortly thereafter, and the tentative ruling for that date set forth various items that Debtor would need to address. No such motion is on the docket. The refinance motion was supposed to supersede the proposed plan and disclosure statement, and as noted in the tentative ruling for 10/16/18 those documents are incomplete and confused. See *also* dkt. 65 (objection of Ditech Fin. LLC). Are debtors and their counsel properly prosecuting this case?

The tentative ruling is to continue this Status Conference with a warning to Debtors and their counsel that if they do not prosecute this case then it likely will be dismissed with a bar against being a debtor again, or converted to chapter 7, or this Court may impose other remedies.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 1/15/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed debtor's status report (dkt. 50) and other relevant pleadings.

(a) Plan (dkt. 47) and Disclosure Statement (dkt. 48). These documents are incomplete and confused. But the tentative ruling is that there is no need to proceed with these documents if Debtors are going to proceed with a proper motion to refinance and pay all creditors in full (as stated in their status report).

(b) Proposed refinance. The claims register lists total claims fo \$419,929.77 as of the petition date (of which \$366,270.15 are listed as secured and \$150.29 as priority). The proposed refinance would generate loan proceeds of \$463,000. This appears to be sufficient to pay all claims, probably including postpetition interest, although perhaps not including 100% of asserted administrative expenses. Counsel for the debtor should be prepared to address (i) the form of motion he intends to file, (ii) whether that motion will seek authority to pay unsecured claims, and (iii) whether unsecured claims will be paid out of escrow or by some other means and, if the latter, who will hold the net proceeds after payment of secured claims.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Continue to the date and time set forth below. Appearances are not required on 8/14/18.

(1) Current issues. This Court has reviewed debtor's status report (dkt. 38) and other relevant pleadings.

(a) This Court does not have any issues to raise *sua sponte*.

(2) Dates/Deadlines. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (timely served, dkt. 23, 25)

(b) Plan/Disclosure Statement*: file by 9/25/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 10/16/18 at 1:00 p.m. *Brief* status report due 10/2/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

Appearances required by counsel for the debtor and by the debtor themselves.

(1) Current issues. This Court has reviewed the debtors' status report (dkt. 14), and the other filed documents and records in this case.

(a) May MOR (dkt. 18). The MOR purports to cover the period from 5/28/18 (the petition date) to 5/31/18, but is essentially blank, including the section for disclosure of existing insurance coverage (dkt. 18, pdf p. 5). Debtors should be prepared to address (i) whether they have insurance coverage on their residential real property (and any other asset requiring insurance); and, if they do (ii) whether they read the MOR and understood it prior to signing.

(b) Case Status Report (dkt. 14).

(i) Budget Motion. The status report says that a budget motion is not required by Judge Bason's procedures (dkt. 14, pdf p. 3), but that is not correct. See Judge Bason's Procedures, Section VII.F ("Judge Bason requires the use of local forms F 2081-2.2.MOTION.BUDGET and F 2081-2.2.ORDER.BUDGET"). Did counsel actually review the posted procedures? The tentative ruling is to set a deadline of 6/28/18 to file and serve a budget motion.

(ii) Consumers' confidential information. The status report states that the debtors do not have possession, custody, or control of consumers' confidential information (dkt. 14, pdf p. 10), but this Court questions whether that is accurate. What about customer lists from Hey Baby Sales, Inc.? Do the debtors claim any rights to those lists? (e.g. if the case were converted to a chapter 7 case, a sale of the debtors' interest in the company took place, and the buyer wanted the customer lists, would the debtors agree they could not retain or use the lists because the lists are owned by the company?).

The debtors should be prepared to address what steps they will take to protect confidential consumer information, and whether a consumer privacy ombudsman is required (11 U.S.C. 332).

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(2) Deadlines/dates. This case was filed on 5/28/18.

(a) Bar date: 9/4/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/25/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/14/18 at 1:00 p.m., *brief* status report due 7/31/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricardo Edmundo Lengua

Represented By
John A Harbin

Joint Debtor(s):

Pamela Lorraine Lengua

Represented By
John A Harbin

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2:17-15770 Steve O Chong and Edwina Theresa Chong

Chapter 11

#13.00 Cont'd Status Conference re: Post Confirmation
fr. 7/10/18, 9/18/18, 12/18/18, 3/26/19

Docket 87

Tentative Ruling:

Tentative Ruling for 5/21/19:

Continue to 7/2/19 at 1:00 p.m. with a brief status report due 6/30/19, with the expectation that if a final decree is issued then the continued status conference will come off calendar. See status report (dkt. 115).

Appearances are not required on 5/21/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue to 5/21/19 at 1:00 p.m. with a brief status report due 5/14/19, with the expectation that if a final decree is issued then the continued status conference will come off calendar. See status report (dkt. 115).

Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling 12/18/18:

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CONT... Steve O Chong and Edwina Theresa Chong

Chapter 11

Continue to 3/26/19 at 1:00 p.m. with a brief status report due 3/19/19, with the expectation that if a final decree is issued then the continued status conference will come off calendar. See status report (dkt. 113).

Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling 9/18/18

Appearances required.

At a hearing on 7/10/18 this Court orally ordered that (1) the debtor's disclosure statement was approved on a final basis (as reflected in the written order at dkt. 101), (2) the debtor's plan was confirmed, and (3) this post-confirmation Status Conference was set, with a written status report due no later than 9/4/18. No proposed written order has been lodged confirming the debtor's plan. Counsel for the debtor is directed to do so immediately. No written status report was filed. Counsel for the debtor is directed to address why not.

Assuming there are satisfactory responses to the foregoing issues, the tentative ruling is to continue this post-confirmation Status Conference to 12/18/18 at 1:00 p.m., with a written status report due 12/4/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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Chapter 11

Debtor(s):

Steve O Chong

Represented By
Lionel E Giron
Kevin Tang

Joint Debtor(s):

Edwina Theresa Chong

Represented By
Lionel E Giron
Kevin Tang

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2:18-17941 Patricia Ann Theus

Chapter 11

#14.00 Cont'd combined hrg re: Approval of Disclosure Statement
and Chapter 11 Plan
fr. 04/02/19

Docket 75

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 15,
5/21/19 at 1:00 p.m.)

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference (calendar no. 8,
4/2/19 at 1:00 p.m.)

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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2:18-17941 Patricia Ann Theus

Chapter 11

#15.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/14/18, 9/18/18, 10/16/18, 11/27/18, 01/09/18,
2/5/19; 04/02/19

Docket 7

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #9, March 2019, dkt. 94)

At the 4/2/19 hearing, Debtor's counsel informed this Court that Debtor actually was postpetition current with secured creditors despite MOR #6, #7, and #8 reflecting 3 missed payments to FCI Lender and 3 missed payments to Rushmore Loan Management. Debtor's counsel stated that forthcoming amended MORs would reflect that Debtor is current. But only MOR #8 has been amended to reflect those changes (see dkt. 92) and MOR #9 still reflects that the mortgage payments have not been made (dkt. 94, p.7). What is Debtor's explanation?

(b) Second Amended Plan (dkt. 96) and Disclosure Statement (dkt.95)

At the 4/2/19 hearing on Debtor's First Amended Plan, this Court addressed several objections regarding the first amended plan (dkt. 76) and disclosure statement (dkt. 75). One issue was feasibility. Another was, as to Amir Hechter 24/42% Ocean 18, LLC 75.58% ("Hechter/Ocean") (Class 2B, listed as "Nationwide Servicing Center"), that the proposed interest rate (5%) and length of time for repayment (360 months/30 years) were insufficient. See tentative ruling for 4/2/19 (reproduced below). The tentative ruling is that Debtor's second amended plan does not adequately address these issues, and appears to have additional problems.

As for feasibility, the situation is worse because Debtor projects that she will have only \$17.31/mo. of positive cash flow (dkt. 95 Ex. C, at PDF p.6) when previously she projected \$42.14/mo. for the first 50 months (dkt. 75,

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CONT...

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Chapter 11

Ex.C, at PDF p.6). As for Hecter/Ocean, the term remains unchanged at 30 years, and although Debtor has increased the interest rate from 5% to 5.5%, the tentative ruling is that this is still insufficient for all the reasons set forth in the tentative ruling for 4/2/19 (reproduced below). See dkt. 96 Ex. A, at PDF p.7.

Note: As a side issue, the Plan has been confusingly amended in ways that turn out not to make a material difference. Specifically, Debtor has moved some debt repayment out of Exhibit A of the proposed Plan (which is supposed to show all payments to creditors) and into Exhibit I (which is supposed to show net income available to pay creditors).

Previously Debtor correctly listed payments to Wilmington Savings Fund ("Wilmington") on two separate lines of Exhibit A - once for the arrearage (\$402.95/mo. to be paid over 60 months) and once for the restructured ongoing payments (\$1187.10/mo. to be paid over a longer term). See 1st Am. Plan, dkt. 76, Ex.A. True, Debtor incorrectly listed the arrearage in Class 1A, which is supposed to be for a principal residence (*id.*), but that could have been readily fixed by listing Wilmington in two rows that were both designated as Class 2A: one row for arrears and one row for restructured ongoing payments. Instead Debtor has listed Wilmington in Exhibit A to be paid \$1197.97/mo. (2d Am. Plan, dkt. 96, Ex.A) and has also added a row in Exhibit I (2d from bottom) for \$402.95/mo. in "Contractual Arrears" (presumably paid to Wilmington).

The bottom line is that there is little net difference, but the documents fail to list all payments to creditors where they belong, in Exhibit A. The tentative ruling is that this does not matter because the Plan cannot be confirmed anyway.

Based on the foregoing and this Court's 4/2/19 tentative ruling, the tentative ruling is to dismiss or convert this case, because Debtor appears unable to propose a confirmable plan. See 11 U.S.C. 1112(b)(1)&(4)(J). The parties should be prepared to address whether dismissal or conversion is in the best interests of creditors.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

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CONT...

Patricia Ann Theus

Chapter 11

(b) Plan/Disclosure Statement*: see above.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to set a continued status conference for 6/18/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #8, Feb. 2019, dkt. 85), and US Trustee Notice of Delinquency (dkt. 82)

At the 2/5/19 hearing, Debtor's counsel informed this Court that Debtor actually was postpetition current with secured creditors despite MOR #6 reflecting 3 missed payments to FCI Lender and 3 missed payments to Rushmore Loan Management. But MOR #8 still reflects that those payments are missing. Dkt. 85, p.7. What is Debtor's explanation?

Meanwhile, the United States Trustee ("UST") has filed a Notice of Delinquency (dkt. 82) stating that Debtor missed a quarterly payment of \$650 to the United States, and has not (as of that date) provided proof of current insurance (including a vehicle). These defaults call into question whether Debtor has sufficient cash flow to reorganize in this case.

(b) First Amended Plan (dkt. 76) and Disclosure Statement (dkt.75) - voting: acceptance by some, but not all, impaired classes (section 1129(a)(8))

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As noted below, Class 1A has been combined with Class 2A, so there are three classes: Classes 2A (Wilmington), 2B (Nationwide/Hechter/Ocean), and 4A (general unsecured creditors). Debtor's Ballot Summary (dkt. 91) lists these three classes, but it includes two errors.

First, it asserts on page 1, item 6, that only one class (Class "2(a)") has accepted the Plan. But the ballots attached to the summary appear to show that two classes have accepted the Plan (Classes 2A and 4A).

Second, the Ballot Summary states on page 1, item 3, that cramdown (11 U.S.C. 1129(b)) is not requested. But 11 U.S.C. 1129(a)(8) requires acceptance by all impaired classes, and the only exception is cramdown. See 11 U.S.C. 1129(b) ("if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met ..." then the Court can confirm such plan in certain circumstances). In other words, by no withdrawing the Plan and instead proceeding with this hearing, Debtors implicitly request cramdown, even though the Ballot Summary says otherwise.

Accordingly, this Court will examine both whether the Plan meets all the requirements of subsection "(a)" of section 1129 (other than paragraph "(8)") and whether it meets the requirements of subsection "(b)." In addition, this Court will examine whether the Disclosure Statement, which was only provisionally approved for purposes of soliciting votes, can be approved on a final basis as containing "adequate information" within the meaning of 11 U.S.C. 1125(a)&(b).

(c) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a)(11) feasibility

Debtor proposes a 100% dividend to all creditors. But Debtor's budget is very thin. See Disclosure Statement, Exhibits C & I (dkt. 75, at PDF pp.6 & 13). Even with minimal expenditures on items like food and housekeeping (\$550/mo.) and medical and dental expenses (\$50/mo.), Debtor projects that she will have only \$75.00 left at the end of the Effective Date and \$42.14/mo. left each month thereafter (increasing to \$358.70/mo. after the first 50 months).

But as noted above Debtor's finances appear to be unreliable. How can this Court find that Debtor's Plan is feasible (i) if Debtor is already behind on postpetition payments or alternatively (ii) if Debtor's reporting is so unreliable?

In addition, Debtors' cash flow has been made worse by their Court-

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approved stipulation to resolve an objection to confirmation and modify their Plan with Creditor Wilmington Savings Fund Society, FSB dba Christiana Trust ("Wilmington"). See dkt. 78 (limited obj.), dkt. 86 (stipulation), & dkt. 88 (order approving stip.). The Plan calls for payments to Wilmington of \$1,187.10/mo (Class 2A & Ex.E) plus another \$402.95/mo. for the arrears (originally Class 1A, but now included in Class 2A per the stipulation, dkt. 86, p.3, para."1"), for a total of \$1,590.05. The stipulation calls for slightly more: (i) payments of \$1,119.61/mo. (amortizing payments of principal and interest) + (ii) \$255.50/mo. estimated escrow payments (which do not appear to be accounted for in Debtors' budget, dkt. 75, Ex.I) + (iii) \$402.95/mo. to pay arrears, for a total of \$1,778.06 (which is \$188.01/mo. more than contemplated in the Plan: \$1,778.06 - \$1,590.05 = \$188.01).

A feasibility objection has been raised (dkt. 83) by creditor(s) Amir Hechter 24/42% Ocean 18, LLC 75.58% ("Hechter/Ocean") (Class 2B, listed as "Nationwide Servicing Center" in the Plan (dkt. 76, p.7). Based on the foregoing analysis, the tentative ruling is to sustain that objection.

(d) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a)(7) "best interests of creditors"

Hechter/Ocean objects that the Plan does not meet the "best interests of creditors" test, which requires that each creditor receive property of a value, "as of the effective date of the plan, that is not less than the amount that such [creditor would receive] if the debtor were liquidated under chapter 7 of this title on such date." 11 U.S.C. 1129(a)(7)(A)(ii). The value of Debtor's promise of cash payments over time is addressed below.

(e) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a)(3) "good faith"

Hechter/Ocean objects that its loan matured seven years ago, that it negotiated a second mortgage loan based on Debtor's credit worthiness, property value, etc. at the time when the loan was made, and [t]o arbitrarily extend the term of a loan secured by property from which the Debtor is collecting rents, and using the rental income for payment to other creditors, while forcing this creditor to wait 30 additional years to recover its full investment, puts the Debtor's good faith in question. [Dkt. 83, p.5:24-26]

On the one hand, there is no inherent lack of good faith in proposing to

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pay debts over time, even if those debts have already matured. To the contrary, for all creditors - regardless whether they are an unsecured tort victim, an unsecured trade vendor, a secured creditor with a fully matured loan, or a secured creditor with a loan that has just begun - the Bankruptcy Code contemplates that typically they will be paid over time, so as to maximize a debtor's ability to pay all creditors.

On the other hand, the tentative ruling is that Hechter/Ocean is correct that there are limits to this ability to pay over time. Debtor's good faith in proposing the Plan's treatment of Hechter/Ocean (Class 2B) is intertwined with whether that class will receive an appropriate interest rate to compensate it for all risks, including the increased risk from a long (360 month) term of repayments. Those issues of the appropriate interest rate and term are addressed below.

(f) Plan (dkt. 76) and Disclosure Statement (dkt.75) - other requirements of section 1129(a)

The tentative ruling is that the remaining requirements of section 1129(a) are either satisfied or irrelevant. For example, the requirements in paragraph "(9)" for treatment of tax claims appear to be satisfied by Debtor's use of this Court's form Plan and exhibits, which provide for payment of tax claims over a shorter period than other creditors in compliance with that paragraph of section 1129(a).

(g) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(b) "cramdown"

Under 11 U.S.C. 1129(b) this Court "shall" confirm the Plan if it satisfies all the requirements of subsection "(a)" except for paragraph "(8)" (acceptance by all impaired classes) and "if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." The "fair and equitable" requirement includes, but is not limited to, the requirements of paragraph "(2)" of section 1129(b), which are addressed below.

Hechter/Ocean objects that the Plan does not provide the "indubitable equivalent" of its claim. The tentative ruling is to overrule that objection, because the "indubitable equivalent" is just one of three alternative treatments: (i) retaining the creditor's lien and receiving "deferred cash payments" with a present value of the lien's present value (what the Plan

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proposes) (11 U.S.C. 1129(b)(2)(A)(i)), (ii) a sale, subject to credit bidding rights (1129(b)(2)(A)(ii)), "or" (iii) the "indubitable equivalent" of the creditor's claim (1129(b)(2)(A)(iii)).

But that leads to another objection raised by Hechter/Ocean: that the Plan does not provide cash payments with a present value equal to its lien's present value. 11 U.S.C. 1129(b)(2)(A)(i). Hechter/Ocean argues that "this Court should require an interest rate of 7.75% and a shorter, more reasonable term." Dkt. 83, p.4:20-21.

Hechter/Ocean uses the "formula" approach that was used by the Supreme Court for small-value collateral (a used truck) in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). That formula is the prime rate plus 1% to 3% depending on the risk factors.

It is an open question whether the Supreme Court intended for the formula approach to be used in all cases. The Posted procedures of Judge Bason (available at www.cacb.uscourts.gov) include the following:

§§ 506(b), 1129(b), 1325: "cramdown" interest rates. Judge Bason has expressed the view in various cases that when dealing with relatively small dollar amounts (for which the cost of presenting expert testimony as to interest rates would be prohibitive) the analysis in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004), is appropriate, and conversely when dealing with larger dollar amounts the *Till* analysis probably is not appropriate, and one acceptable method for experts to opine as to the appropriate interest rate is the method described in *In re Boulders on the River, Inc.*, 164 B.R. 99 (9th Cir. BAP 1994); see *In re N. Valley Mall, LLC*, 432 B.R. 825 (Bankr. C.D. Cal. 2010) (discussing continued viability of *Boulders on the River*).

The question is whether, in the facts and circumstances of this case, this Court should apply the simpler analysis in *Till* or a more complex analysis such as the one in *Boulders on the River/N. Valley Mall*. The tentative ruling is to use the *Till* analysis.

Applying *Till*, Hechter/Ocean asserts that the "current prime rate is 5.5%" and "[t]herefore a fixed rate of 6.5% to 8.5% would be proper as the bankrupt Debtor is getting an 84% loan to value ['LTV'] loan: this rate would be unavailable to a borrower with a history of defaults with even a 20% loan to value loan in today's market." Dkt. 83, p.5:10-14. As for the proposed term of repayment under the Plan (360 months), which is intertwined with the

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appropriate interest rate and is also an independent issue, Hechter/Ocean argues:

[T]he loan fully matured on December 28, 2011, more than seven years prior to the expected effective date of the plan. The Debtor proposes that the claim be paid over a new term of 360 months from the effective date. That is adding 30 years to a loan that matured more than seven years ago. Such treatment is patently unfair to this Secured Creditor, who negotiated a second mortgage loan based on the Debtor's credit worthiness, property value, etc. [Dkt. 83, p.5:19-23]

The tentative ruling is that, before this Court could fully assess the appropriate interest rate and term of any proposed repayment to Hechter/Ocean, this Court would need more evidence. But the tentative ruling is that, based on the evidence that is already in the record, the current proposed Plan's treatment of this claim is insufficient, and therefore the Plan cannot be confirmed.

Specifically, the additional evidence that would need to be presented would include support for Hechter/Ocean's assertion that the current prime rate is 5.5%, and evidence bearing on the risk factors, including whether there are analogous market rates for comparable debt (second liens, with a comparable LTV and comparable duration). See *also Till*, 541 U.S. 465, 484 (majority noting four components of risk cited by dissent: "(1) the probability of plan failure; (2) the rate of collateral depreciation; (3) the liquidity of the collateral market; and (4) the administrative expenses of enforcement").

(h) Conclusion as to Debtor's finances, and proposed Plan (dkt. 76) and Disclosure Statement (dkt.75)

The tentative ruling is that the cash flow evidence does not support the projections in Debtors' Disclosure Statement, so it cannot be approved on a final basis. In addition, the tentative ruling is that the Plan cannot be confirmed because Debtors have not established feasibility (1129(a)(11)).

The parties would have to present more evidence before this Court could determine the specific interest rate to provide present value (for purposes of 1129(b)(2)(A)(i), 1129(a)(3), and 1129(a)(7)) and whether the proposed term is too long to be "fair and equitable" to Hechter/Ocean (1129(b)(1)). But the tentative ruling is that (i) the combination of the currently proposed interest rate and term are insufficient to provide present value and

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(ii) this Court need not reach the issue of what exact interest rate and term would be necessary to provide present value because the feasibility issue is dispositive.

(i) Future proceedings / disposition of this case

Based on the foregoing tentative rulings, the parties should be prepared to address whether this case should be dismissed or converted. One alternative might be for Debtor to abandon the property secured by the lien of Hechter/Ocean. Another alternative might be if Debtors have any other, more feasible strategy to reorganize their finances, including any good faith grounds to object to the Hechter/Ocean claim, and whether that would reduce their obligations enough so that they could propose a feasible plan. But it might be too late to propose such a strategy given the duration of this case, and the lack of evidence that Debtor's finances are improving.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: see above.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to set a continued status conference for 5/7/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues.

(a) Finances (MOR#6, Dec. 2018, dkt. 72)

Debtor reports having lost money during this month and having missed 3 payments amounting to \$3,510 to FCI Lender (*but see* APO, dkt. 70), 3 payments amounting to \$5,334.18 to Rushmore Loan Mgmt (dkt.72, p.7), and quarterly UST fees of \$325 (*id.*, p.9). Debtor also reports that vehicle insurance was only \$25,000 (does that comply with legal requirements?) and expired on 12/22/18. *Id.*, p.7.

What caused these losses and missed payments? How can Debtor afford to continue in this chapter 11 bankruptcy case?

(b) Plan (dkt. 74), Disclosure Statement (dkt. 73), and order setting hearing re same (dkt. 63)

The tentative ruling is to reschedule the combined hearing on final approval of the Disclosure Statement and confirmation of the Plan from 3/5/19 to 4/2/19 at 1:00 p.m. for two reasons. First, as noted above, Debtor's finances are problematic, and perhaps additional time will enable Debtor to establish a better track record and meet the feasibility requirement of 11 U.S.C. 1129(a)(11).

Second, contrary to the oral ruling at the last status conference, Debtor did not lodge this Court's form of order (posted at www.cacb.uscourts.gov, under Judge Bason's portion of the web site) setting a combined hearing, which would have directed Debtor to provide notice to creditors of the 3/5/19 hearing (and associated deadlines) in sufficient time to comply with the applicable rules. (Debtor's counsel apparently misunderstood and lodged a different order that included the 3/5/19 hearing along with other matters, which this Court signed without recognizing the error, dkt. 63.)

The tentative ruling is to set a deadline of 2/8/19 for Debtor to lodge the correct form of order and file a revised Disclosure Statement and revised Plan that list the revised 4/2/19 hearing date in the caption, and that include a revised form of ballot (dkt. 74, Appendix "1") that states "The Court has provisionally approved" the Disclosure Statement instead of "The Court has approved" (Emphasis added.)

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: see above.

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(c) Continued status conference: 4/2/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue as set forth below. Appearances are not required on 1/8/19.

(1) Current issues.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Report (dkt. 67). This Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: file by 1/18/19 (see dkt. 63) using the forms required by Judge Bason and lodge a proposed order authorizing service of those documents and setting a combined hearing on final approval of the disclosure statement and confirmation of the plan (DO NOT SERVE yet, except on the U.S. Trustee - this Court will review the filed documents and then either issue the proposed order or establish other procedures).

(c) Continued status conference: 2/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor's September Monthly Operating Report (dkt. 50), lists a total of \$2,900 for "personal expenses." What are these expenses?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/8/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor still has not lodged interim or final orders

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approving the use of cash collateral, or a final order approving her budget.
Why not?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 42) and the other filed documents in this case.

(a) Motion of U.S. Trustee ("UST") to dismiss or convert (dkt. 21). The debtor claims to have come into compliance (dkt. 41). Does the UST have any outstanding compliance issues?

(b) Budget motion (dkt. 15) and supplemental declaration of non-debtor spouse Jose M. Juarez (dkt. 37). Grant on a final basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Cash collateral motion (dkt. 14, 16). The adopted tentative ruling for the 8/14/18 hearing (reproduced at calendar no. 7, 9/18/18 at 1:00 p.m.) directed the debtor to file an order granting the motion on an interim basis. No such order has been lodged. Why not? Subject to a satisfactory answer,

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the tentative ruling is to grant the motion on a final basis, on the same terms as it was granted on an interim basis. *Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 17) and the other filed documents in this case.

(a) Budget motion (dkt. 15). Grant on an interim basis, with a final hearing concurrent with the continued status conference (see below), and a deadline of 8/21/18 to file declaration(s) regarding the income of the debtor's spouse (see below). *Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Debtor's spouse's income. The debtor's bankruptcy Schedule I reports that the debtor's spouse is a self-employed construction contractor, but that the spouse only earns \$1,500/mo. in net income. Dkt. 1, at PDF p.32, line 8a. This Court takes judicial notice that there is considerable construction activity in this geographic area. Why is that income not higher?

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In addition, there is no attached statement showing gross income, expenses, and the calculation of net income. That is contrary to the instructions for line 8a, and to this Court's order that for reporting purposes any spouse is to be treated as equivalent to the debtor (dkt. 6, para.3).

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/02/19, 04/09/19; 04/30/19

LAURA Z. NALVARTE MORENO
VS
DEBTOR

Docket 31

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Laura Z. Nalvarte Moreno

Represented By
Michael F Chekian

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#17.00 Cont'd hrg re: Motion to Sell Property of the Estate
Free and Clear of Liens Under Section 363(f)
fr. 04/02/19, 4/9/19; 04/30/19

Docket 42

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 18, 5/21/19 at 1:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the status conference (calendar no. 16, 4/30/19 at 1:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the status conference (calendar no. 9, 4/9/19 at 1:00 p.m.).

Tentative Ruling for 4/2/19:

Appearances required. The tentative ruling is to deny the motion unless all the issues set forth below are resolved, and if that occurs, or is reliably promised, then continue the motion to 4/30/19 at 1:00 p.m. with a deadline of 4/9/19 for Debtor to file and serve an amended motion on all creditors via U.S. mail.

The tentative ruling is to require the following:

(a) Overbidding: Debtor must amend the overbidding procedures to address the concerns raised in the objection filed by the United States Trustee ("UST") (dkt. 39);

(b) Rent: Debtor must satisfactorily address whether the tenant/proposed buyer is being forgiven rent and, if not, what steps are being taken to recover the missing rent payments (*id.*);

(c) Receipt of deposits: Debtor must provide an offer of proof regarding the proposed buyer's deposits (*id.*);

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(d) Withholdings, and use of net proceeds: Debtor must provide that the sale free and clear of liens will result in Debtor holding only an approximation of the disputed portion of those liens, and the withheld portion must be specified in the motion and must be a reasonable amount; and Debtor must address what assurances will be provided that the net proceeds of sale will be held or will only be used for purposes that are authorized by this Court (e.g., will all net proceeds be held in a blocked account?);

(e) Notice of sale: No later than the deadline for filing and serving the amended motion, Debtor must file a notice of sale on the local form (LBR 6004-1(f));

(f) Taxes: Debtor must address the tax consequences of the proposed sale (LBR 6004-1(c)(3)(l)).

(g) "Pre-Release to Debtor": Debtor must explain and justify the tens of thousands of dollars that are listed as "Pre Release" to Debtor before the amount "Due To Seller" on the estimated closing statement (dkt. 23, Ex.B, at PDF p.43);

(h) Good faith finding: Judge Bason's posted procedures (available at cacb.uscourts.gov) provide that before any successful bidder is found to be a good faith purchaser under 11 U.S.C. 363(m), supporting declaration(s) must be filed that address:

(1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees),

(2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and

(3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Christian Rossil

Represented By
Todd B Becker

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2:19-10153 Christian Rossil

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#18.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/05/19, 03/05/19, 4/9/19; 04/30/19;

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances required.

(1) Current issues

(a) Budget Motion (dkt. 19) and incomplete Schedule I (see dkt. 68)

This Court set the Budget Motion for hearing because the attached Bankruptcy Schedules I and J were not completed in accordance with the instructions on the form (see dkt. 68). Debtor was directed to file an amended Schedule I to cure the defect by 5/16/19. Dkt. 68. As of the time this tentative ruling has been prepared, no amended schedule has been filed. Why not?

What remedies should this Court impose for that omission, and for the fact that Debtor did not seek approval of a budget until four months after this bankruptcy was filed? See *id.* Should this Court impose a sanction on Debtor and/or Debtor's counsel?

If this case is not dismissed or converted (see below), the tentative ruling is to continue the Budget Motion to the same date and time as the continued status conference (see below).

(b) Order to show cause ("OSC," dkt. 65), and Debtor's response (dkt. 77)

The parties should be prepared to address whether this case should be converted or dismissed. If this case is not dismissed or converted at this hearing, the tentative ruling (per dkt. 65, to which Debtor has acceded per dkt. 77) is (i) to continue the OSC to the same time as the continued status conference (see below), and (ii) to require both Debtor and proposed buyer of the Gage Avenue property to hire independent third party brokers in connection with the sale, with full disclosure and (as to Debtor) with this Court's approval of such employment. See dkt. 65.

(c) Motion to sell free and clear (the "Sale Motion," dkt. 42)

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If this case is not dismissed or converted, the tentative ruling is to continue the Sale Motion to the same time as the continued status conference, to allow time for Debtor and the proposed buyer to hire independent third party brokers as set forth above. As to Debtor's alleged "bona fide dispute" regarding certain liens (11 U.S.C. 363(f)(4)), without loan closing statements (at a minimum), how can this Court accept on their face Debtor's assertions that, supposedly, he did not receive all of the net proceeds of certain promised loans to which he claims to be entitled? See Adv. No. 2:19-ap-01138-NB, dkt. 1; *and* Adv. No. 2:19-ap-01089-NB, dkt. 1.

The tentative ruling is that Debtor has not adequately addressed the objections of Mr. Daneil Partida (dkt. 55) and Mr. Andrew Kwiat (dkt. 52) to the Sale Motion. This Court has the same concerns regarding other lienholders. Therefore, if any sale is approved in future, this Court anticipates that (at least if the current record remains unchanged) all liens (including not just those of the objecting creditors, but all other asserted liens as well) will need to be paid out of escrow in accordance with escrow demands.

To be clear, the issue before this Court is solely whether or not to authorize any sale to be free and clear of some portion of the liens, not whether the liens are ultimately valid. Therefore, if distributions are made to lienholders and later Debtor can establish that some lienholders have been overpaid, he would remain free to pursue any legitimate action to recover any such overpayment.

The foregoing issues can be addressed at the continued sale hearing (if this case is not dismissed or converted).

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 (untimely but excused, dkt. 25).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/18/19 at 1:00 p.m. (if this case is not dismissed or converted). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances required.

(1) Current issues

(a) Relief From Stay Motion (the "R/S Motion," dkt. 31)

According to Debtor's status report (dkt. 54) the disputes with movant Ms. Moreno have been resolved by an agreement to be embodied in a forthcoming proposed adequate protection order ("APO"). The parties are directed to address whether any disputes remain, and when the APO will be lodged.

(b) Amended Sale Motion (dkt. 42)

On further review this Court is concerned with several aspects of the proposed sale of the Gage Ave. property. The proposed sale is for \$550,000, subject to overbids, to the current tenant, Ms. Gabi Rangel ("Proposed Buyer").

(i) Representing both sides

This Court recalls that at prior hearings Debtor made assurances that Proposed Buyer was representing herself. But Debtor's real estate agency, Realty World Capero, is listed as agent for both the seller (Debtor) and Proposed Buyer. See Sale Motion (dkt. 42) Ex.A at PDF pp.30-33.

Although dual agency is permissible outside of bankruptcy, within bankruptcy Judge Bason has prohibited dual agency because it means the real estate agent who represents the bankruptcy estate is not disinterested and may have an actual conflict of interest. The fact that Debtor is acting as his own agent, and his firm is representing Proposed Buyer, only makes these concerns worse. Can the Sale Motion be granted despite these concerns?

(ii) Service issues

One lienholder asserts that he did not receive the Sale Motion papers, and only recently learned of the proposed sale when another lienholder contacted him. See Ltd. Obj. (dkt. 52). Can this Court rely on Debtor's proof of service?

(iii) Buyer's closing costs

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The estimating closing statement (dkt. 42, Ex.B, at PDF p.48) includes a "Seller Credit for Buyer[']s Closing Costs" in the amount of \$16,500. What is the basis for this distribution to Proposed Buyer? Does that effectively reduce the purchase price to \$533,500 (because \$550,000 - \$16,500 = \$533,500)? Does that make the initial overbid of \$575,000 unreasonably high, and thereby chill the bidding?

(iv) Unpaid rent

The Sale Motion reveals that Proposed Buyer owes \$1,353 for March, 2019 rent, supposedly offset by some repairs to the property; but Debtor has not yet received receipts. See dkt. 42, p.10:12-14. In addition, rent is due for April, 2019. *Id.*, p.10:15-17. What is the current status of these matters?

(v) Accounting for receipt and use of security deposit

The accounting in the Sale Motion is unclear. Nor is it clear what happened before or after Debtor filed his bankruptcy petition, on 1/18/19 (the "Petition Date").

Apparently, Proposed Buyer made a \$5,000 deposit; was supposed to make an additional \$35,000 deposit; and actually made a total deposit of \$50,000. See Dkt. 42, p.10:19-20. It is unclear if some of these funds were received after the Petition Date.

It appears that there was a "pre-release" to Debtor of the entire \$50,000 security deposit. Debtor alleges (dkt. 42, pp.10:18-11:18) that he used those funds as follows:

\$ 20,200.00 Juan Resendiz (paid prepetition? for prepetition work)
\$ 4,055.44 Home Depot supplies (prepetition)
\$ 8,250.00 1st DOT (Kwait) (paid prepetition? for prepetition debt)
\$ 5,350.00 Ramon Ruelas (repairs) (paid prepetition? prepetition work?)

\$ 4,770.00 Debtor's (prepetition?) payments re office lease & car
\$ 42,625.44 total

Debtor is "unable to account for" the balance, and alleges that it "was likely used on miscellaneous expenses for [Debtor's] business and the property." Sale Motion (dkt. 42) p.11:17-18. (Debtor calculates \$4,594.56, *id.*, but this Court calculates \$7,374.56 because \$50,000 - \$42,625.44 = \$7,374.56.)

Depending on the timing, Debtor's depletion of the security deposit could constitute unauthorized postpetition borrowing (11 U.S.C. 364), and his use of the resulting funds could be unauthorized postpetition acts out of the

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ordinary course of business (11 U.S.C. 363), or unauthorized postpetition transfers (11 U.S.C. 549). Debtor is directed to clarify the timing.

When were the "pre-releases" of the security deposit made? When were the expenditures made? How can Debtor provide any evidence regarding the timing and use of the missing \$7,374.56?

(vi) Sale "free and clear"

One of Debtor's two grounds for selling free and clear of liens is an alleged "bona fide" dispute (11 U.S.C. 363(f)(4)) regarding the dollar amount of those liens:

The Debtor, simultaneously with the prosecution of this Motion, will seek through adversary complaints filed against the secured creditors holding liens against the Property to void said liens in whole or in part. The allegations of said complaints will include usury claims and challenges to the amount of said claims (i.e., the Debtor did not receive the amounts the creditors promised to lend). Debtor proposes that proceeds in the amount of all secured claims against the Property be held in escrow by Debtor's attorney until the resolution of said adversary proceedings or as agreed to by the parties. [Sale Motion (dkt. 42), p.6:15-23 (emphasis added), and see *id.* pp.17:15-18:6.]

As of the preparation of this tentative ruling, no such adversary proceedings have been filed (except for the one against Ms. Moreno that allegedly has been settled as part of the forthcoming APO). See dkt. 40 (Adv.P. 2:19-ap-01089-NB). In addition, there is reason to doubt whether any such disputes are "bona fide."

The limited opposition of the holder of the first deed of trust, Andrew Kwiat (dkt.52), points out that he is a licensed real estate broker, which generally creates an exception to the usury limitations. More broadly, the fact that Debtor himself is a licensed real estate broker might exempt all of the liens from the usury limitations (this Court has not researched that issue, and only uses it to illustrate that Debtor's bald assertion of "usury" does not appear to be sufficient to create a "bona fide" dispute).

Debtor's other ground for selling free and clear of liens is that the sale price is greater than the aggregate value of all liens on the property (11 U.S.C. 363(f)(3)). See Sale Motion (dkt. 42), p.11:1-6. That appears to be a sufficient ground for authorizing the sale itself, but not for withholding any of the proceeds.

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Any withholding of proceeds would have to have some bankruptcy-related purpose - e.g., to use the funds to preserve or enhance the bankruptcy estate - and would have to be conditioned on adequate protection of each lienholder's interests. See 11 U.S.C. 363(e). Debtor's Sale Motion does not suggest any such purpose, nor any such adequate protection.

Accordingly, the tentative ruling is that (assuming this Court's other concerns are sufficiently addressed and that the sale can be approved at all) all lienholders must be paid in full out of escrow. The only exception is that, to the extent Debtor has a good faith basis to challenge the reasonableness of any attorney fees or other charges, the tentative ruling is that those amounts may be withheld from distribution, but must be maintained in a blocked account, or a trust account maintained by Debtor's counsel, or the equivalent.

(vii) Requested waiver of 14-day stay

Debtor requests a waiver of the 14-day stay of Rule 6004(h) (Fed.R.Bankr.P.). But Debtor provides no reason why the sale, which has already waited many months, cannot wait 14 days longer. That appears to be especially appropriate because Debtor's latest status report (dkt. 54, p.2:12-16) states that the Gage Ave. property is only "nearing" rehabilitation, and Debtor is "awaiting approval" by the architect of an "attic addition." The tentative ruling is to deny Debtor's request to waive the 14-day stay.

(viii) Conclusion as to Sale Motion/Gage Ave. property

The parties are directed to address the foregoing issues. If this Court's concerns can be adequately addressed, the tentative ruling is to authorize the sale but require all liens to be paid in full out of escrow, with the possible exception of attorney fees and other charges that are subject to bona fide dispute and that are held in a blocked account or the equivalent.

Proposed order: If the Sale Motion is granted, Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 (untimely but excused, dkt. 25).

(b) Plan/Disclosure Statement*: TBD

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(c) Continued status conference: 5/21/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances are not required on 4/9/19. The tentative continuances/dispositions of matters before this Court are set forth below.

(1) Current issues

(a) Relief From Stay Motion (the "R/S Motion," dkt. 31)

This Court contin[u]ed the hearing on the R/S Motion per the parties' stipulation (see dkt. 44) informing this Court that the parties needed time to finalize and execute an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

(b) Amended Motion to Sell Free and Clear (dkt. 42)

Grant, as this Court is satisfied that the issues raised in its 4/2/19 tentative ruling have been adequately addressed.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 (untimely but excused, dkt. 25).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 5/21/19 at 1:00 p.m., *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:
Appearances required.

(1) Current issues

(a) Financial losses and irregularities

Debtor's first Monthly Operating Report ("MOR," Jan. 2019, dkt. 17, p.1) appears to show that Debtor started with \$2,518.85 and ended with \$25.64. How is this sustainable? It appears to match Debtor's bankruptcy Schedules I&J (dkt. 1 at PDF pp.43-46), which show negative cash flow and no anticipated future change. Although Debtor's status report (dkt. 13) states that Debtor intends to sell one property and/or evict the tenant, but the docket does not reflect any progress on those things. Based on the foregoing, the tentative ruling is to dismiss this bankruptcy case.

The same MOR appears to show that Debtor paid \$150 on a "Personal Loan" from "Samuel Samuel" via "Cash App" (dkt. 17, at PDF p.2, 1/15/19 entry) - is that an unauthorized postpetition borrowing? Alternatively, is it an unauthorized payment of prepetition debt? Either way, it appears that Debtor is violating the duties of a debtor in possession.

Likewise, the MOR shows a payment of \$479.31 to Capital One Auto Carpay for an "Automobile Loan." Dkt. 17, at PDF p.3, entry for 1/22/19. What is the explanation?

Likewise, the MOR shows a payment of \$228.96 to "Charter Communications" on 1/28/19 for "Internet (Includes Past Due Amounts)." This appears to violate the automatic stay: what will Debtor's counsel do about that?

(b) Disregarding Court order

This Court's "Order Setting Bar Date: April 16, 2019 and Directing

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Service by Debtor" (dkt. 14, emphasis added) specifically directed Debtor to serve a copy of that order no later than February 11, 2019. There is no proof of such service. Why not? The tentative ruling, if this case is not dismissed, is to issue an order setting an amended bar date, and once again direct Debtor to serve a copy of that amended order on creditors (see below).

(c) Missing budget motion. At the 2/5/19 hearing and in the Initial Case Status Report (dkt. 13), Debtor represented to this Court that a budget motion would be forthcoming. As of the writing of this tentative ruling, no such motion has been filed. Why not?

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 but no notice (see above), so re-set to 5/30/19 (DO NOT service any notice - this Court will prepare an amended bar date order and that order will direct Debtor to serve it on creditors).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/9/19 at 1:00 p.m., *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Missing status report. Debtor is directed to explain why a Case Status Report was not filed, as required by this Court's order setting this status conference (dkt. 5).

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(b) Missing "first day" motions. Debtor has failed to file a budget motion (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov). Debtor also has not filed any other typical "first day" motions (e.g., a utility motion).

(c) Negative, and inadequately supported, monthly income. Debtor appears to have a new job as a real estate broker, but even with that new (alleged) income and supplemental income as a Lyft driver he shows negative cash flow. See Bankruptcy Schedules I & J (dkt. 1 at PDF pp. 43-46).

Debtor appears to have two properties, but does not list any leases or any income from a rental property: why not?

Debtor has stated under penalty of perjury that he does not expect any changes to income or expenses (see bankruptcy Schedule I, item 13, and Schedule J, item 24). How can Debtor hope to reorganize with negative cash flow?

In addition, the (sparse) income that is reported is inadequately supported. Debtor has ignored the instructions on bankruptcy Schedule I, line 8a, to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income."

(c) Dismissal? Should this Court dismiss this case? Does the foregoing constitute a "willful failure to appear in proper prosecution" of this case, and/or a "willful" failure to comply with this Court's order setting this status conference, either of which would support dismissal with a bar under 11 U.S.C. 109(g)(1)?

(2) Deadlines/dates. This case was filed on 1/8/19. **If** this case is not dismissed, the tentative ruling is to set the following deadlines/dates:

(a) Bar date: 4/16/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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2:19-10153 Christian Rossil

Chapter 11

#19.00 Hrg. re: Order To Show Cause Why Debtor And Proposed Buyers Should Not Both Be Required to Employ Independent Third Party Brokers, Or Why Other Remedies Should Not Be Imposed For Apparent Violations Of Bankruptcy Code And Rules

Docket 65

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 18, 5/21/19 at 2:00 p.m.)

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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2:19-10153 Christian Rossil

Chapter 11

#20.00 Hrg re: Motion in Individual Ch 11 Case for Order
Approving a Budget for the Use of the Debtor's Cash
and Post-Petition Income

Docket 19

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 18,
5/21/19 at 1:00 p.m.)

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#1.00 Hrg re: Notice of Setting / Increasing Insider Compensation

Docket 472

***** VACATED *** REASON: Motion withdrawn; Status Conferences
continued to 11/12/19 at 2:00 p.m., per stipulation (dkt. 480) and order
thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16,
9/6/16, 11/29/16, 12/13/16, 02/28/17, 4/25/17,
5/23/17, 7/11/17, 8/22/17, 10/03/17, 1/23/18,
1/30/18, 3/20/18, 5/1/18, 11/6/18, 1/29/19, 2/26/19,
4/9/18

Docket 7

***** VACATED *** REASON: Motion withdrawn; Status Conferences
continued to 11/12/19 at 2:00 p.m., per stipulation (dkt. 480) and order
thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:18-12429 Dana Hollister

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Continue as set forth below (to be concurrent with Debtor's premium financing motion (dkt. 839, 841)). This Court anticipates further continuing this status conference at a later date, per Debtor's request in the status report (dkt. 836). Appearances are not required on 5/21/19.

(1) Current issues.

This Court has reviewed the latest filed documents, and is not aware of any issues that would warrant a status conference at this time.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/28/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 4/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Sale procedures motion, re leasehold interest in 1629 Griffith Park Blvd. (dkt. 778)

Grant, with a reservation of all rights for the Presbytery of the Pacific (the "Presbytery") with respect to any objection to the sale motion, including but not limited to any objection to assumption and assignment of the leasehold and Debtor's development and guaranty obligations. In addition, the parties are directed to address the deadline(s) and procedures for any objections by the Presbytery, given the short time between the proposed auction date (6/25/19), any filing of evidence of assurance of future performance, and the proposed sale hearing date (7/2/19). See dkt. 815, p.9, n.4.

In addition, the proposed notice (dkt.815, Ex.2) must specify that the hearing time is 2:00 p.m. (on 7/2/19). See *id.*, p.74, section VIII (entitled "Sale Hearing"). In addition, the proposed notice should be amended to clarify that any Backup Bid will be not just the "next highest" but the "next highest and best" bid after the Successful Bid (as determined by the Agent after consultation with Debtor and confirmation by this Court).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/21/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Bob's, LLC's ("Bobs") Relief From Stay Motion (dkt. 778)

On the present record, deny, for the reasons stated in the tentative ruling on that matter (calendar no. 1, 4/16/19 at 2:00 p.m.).

(b) Evidentiary hearing re same

The tentative ruling is to hold an evidentiary hearing, on the value of the various collateral and liens involved, on 6/17/19, commencing at 9:00 a.m., with any supplemental briefs and evidence in support of the motion due 21 days prior, any supplemental opposition briefs and evidence 14 days prior, and any reply 7 days prior.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/21/19 at 2:00 p.m., with a *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 3/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to further extend exclusivity period (dkt. 759) and Committee support (dkt. 775)

Grant, and extend the exclusive period for Debtor to file a plan through 9/3/19 and the exclusive period for Debtor to obtain acceptance of a plan through 11/3/19.

(b) Emergency motion to employ appraiser (dkt. 780)

Grant, at the hourly rates and with the retainer set forth in the motion (dkt. 780, p.16), subject to this Court's review under 11 U.S.C. 327 (not 328) and Judge Bason's other standard conditions (available at www.cacb.uscourts.gov), all subject to any oppositions at the hearing (per this Court's order shortening time, the "OST," dkt. 782, and the timely service thereof, dkt. 788).

Proposed orders: Debtor is directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/16/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Payment of professional fees

The parties are directed to address the issues regarding cash collateral and the payment of professional fees. See Status Report (dkt. 758), p.6:1-17.

(b) Debtor's use of funds without authority and/or Church/Bird responsiveness to requests for use of funds

The parties are directed to address Debtor's "cash management" issues. See Status Report (dkt. 758), pp.6:18-7:23.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/2/19 at 2:00 p.m. with a *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:18-24571 Jackies Cookie Connection LLC

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#4.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 5/7/19

Docket 76

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6,
5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1,
5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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#5.00 Cont'd hrg re: Motion for Order: (1) Approving Asset Purchase Agreement and Authorizing the Sale of Property free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. § 363(b) and (f); (2) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; (3) Approving the Form and Manner of Notice; and (4) Approving Buyer as Good Faith Purchaser Pursuant to 11 U.S.C. § 363(m) fr. 5/7/19

Docket 80

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019, 5/7/19

Docket 5

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances required.

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80);
Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

At the hearing on 5/7/19 this Court adopted the tentative ruling and granted the Sale Motion, with a waiver of the 14-day stay under 6004(h), subject some modifications. First, although this Court overruled objections and approved Sale Part One (as described in the Sale Motion), this Court set this continued hearing on 5/21/19 to address whether that sale has closed, and to resolve any issues involving the dollar amounts need to (i) cure leased equipment defaults or (ii) pay financed equipment liens.

Second, as to the proposed Sale Part Two, this Court ruled that the sale to Debtor's principal, Ms. Galant, is approved for a payment of \$100,000 and can close with no further order of this Court. But if it turns out that she is unable to pay that price (within the time frame outlined in the Sale Motion), and (i) if she proposes to pay between \$50,000 and \$99,999, then the parties would need to address what remedies are appropriate, such as opening up the proposed sale to overbids; and (ii) if she proposes to pay less than \$50,000 then the proposed Sale Part Two is disapproved, and the intellectual property (and miscellaneous assets included in Sale Part Two) would continue to belong to bankruptcy estate, and could be sold or otherwise addressed.

This Court directed Debtor to lodge a proposed order memorializing the foregoing rulings. As of the preparation of this tentative ruling, no such proposed order has been lodged. Why not?

In any event, are there any issues that are properly before this Court at

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this time in connection with the Sale Motion? Should this Court continue the Sale Motion to the same time as the continued status conference (see below)?

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

There is no tentative ruling, but the parties should be prepared to address the following issues. It is unclear whether Sale Part One has closed. This Court notes that there is a declaration (dkt. 107) of a real estate broker for Debtor's principal, Ms. Galant, regarding the listing of her property for sale (which was contemplated to fund the Sale Part Two); but there is no information about the refinancing the Ms. Galant was contemplating (which was contemplated to fund the Sale Part One).

Should this Court continue the Conversion Motion to the same time as the continued status conference (see below)?

(c) Bar date order (dkt. 108)

This Court issued its Order Setting Bar Date (dkt. 108), directing service by Debtor be completed by 5/10/19. The docket does not reflect any proof of service. What the order timely served? If so, the tentative ruling is to set a deadline of 5/22/19 to file a proof of such service; and if not, the tentative ruling is to issue a new order setting a new bar date.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 6/20/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 6/18/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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Revised Tentative Ruling for 5/7/19:
Appearances required.

(1) Current issues

(a) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Continue to to be heard concurrently with the continued status conference (see part "(2)" of this tentative ruling, below). If, prior to the continued hearing date, Debtor files a declaration that it has closed the proposed Sale Part One, this Court anticipates that the tentative ruling for the continued hearing will be to deny the Conversion Motion without prejudice.

(b) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

Grant the Sale Motion, but only on the following terms:

(i) Minimum dollar amount for Sale Part Two. Debtor's principal, Ms. Rachel Galant, is essentially agreeing to pay debts on which she is already the guarantor (Sale Part One, estimated at \$450,000), and if there is any money left over from the anticipated \$550,000 proceeds of the refinance and sale of her home, then that residual amount (estimated at \$100,000, but possibly much less, down to \$-0-) will be used to pay for Debtor's intellectual property and some *de minimus* assets (Sale Part Two).

The tentative ruling is that there must be a minimum dollar amount payable for Sale Part Two. That is essentially the consideration Ms. Galant must pay (beyond what she owes anyway, as a guarantor) for being able to continue her business without successor liability, based on the Bankruptcy Code's ability to sell property free and clear of an liability that would otherwise follow the assets (which is one type of "interest" in such property). See, e.g., *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003). See also *Myers v. U.S.*, 297 B.R. 774 (Bankr. S.D. Cal. 2003).

The tentative ruling is to set the minimum consideration for the Sale Part Two at not less than \$50,000. The tentative ruling is that this dollar amount is subject to overbids, as set forth below.

(ii) Overbids. The proposed sale must be subject to any overbids at the hearing, including any overbids that are not cash (in whole or in part), or that are for fewer than all assets, or any other combination of

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things. Any "highest and best" determination must be made initially by Debtor, but subject to any objections and resolution by this Court. See generally, e.g., *In re Lahijani*, 325 B.R. 282 (9th Cir. BAP 2005); *In re Mickey Thompson Entm't Group, Inc.*, 292 B.R. 415, 421 (9th Cir. BAP 2003).

(iii) Backup bids. Any sale must be subject to any backup bids, in the event the winning bidder does not timely close either Sale Part One or Sale Part Two. For example, if the proposed purchaser - Debtor's principal - were to close Sale Part One but fail to close the Sale Part Two, and if a backup bidder has been approved for Sale Part Two, then the backup bidder could acquire the Sale Part Two assets (Debtor's recipes, trademarks, and other intellectual property).

(iv) Deadline for resolution of any disputes regarding purchase/cure amounts for equipment. The motion lists some cure/payment amounts as "TBD." In addition, one creditor has objected. See Sale Motion (dkt. 82, Schedules A&B), and see Direct Cap. Corp. Obj. (dkt. 93) (asserting \$11,050.14 arrears plus \$5,411.34 attorney fees to date, for a total alleged cure amount of approximately \$16,461.48).

The tentative ruling is to set a deadline of **May 20, 2019** for Debtor to reach agreement with any equipment lessor/lienholder, or else those creditors will be free to repossess the equipment and must be given access to do so on 24 hours' notice. The reason is that the equipment must be removed by the end of May, or the bankruptcy estate will "abandon" the equipment (technically, an "abandonment" under 11 U.S.C. 554 is abandonment from the estate to Debtor; but Debtor apparently means that it intends to leave the equipment at the landlord's premises, for disposition by the landlord - this Court expresses no opinion whether that would create any postpetition liability, or what competing rights might exist in the equipment at that point). Any dispute can be addressed at the continued hearing on the same date as the continued status conference (see below).

(v) Good faith finding

Any "good faith" finding under 11 U.S.C. 363(m) will need to be supported by sufficient evidence (see the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov). Normally that would include more information than what is Ms. Galant's declaration. See Dkt. 82, p.6:1-7. But the tentative ruling is to accept that declaration, combined with the purchase price above the debts for which she is personally liable and the agreement to turn over to Debtor any profit on resale of equipment, as sufficient *prima facie*

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evidence of good faith.

As to the objection of the "Objecting Creditors" (Mr. Haloosim *et al.*, dkt. 87), this Court is inclined to agree with Debtor that, on the present record, there is a *prima facie* showing by Debtor of sufficient marketing, and insufficient evidence of any improper conduct by Debtor. As for their objections under 11 U.S.C. 363(f), this Court questions whether they have an "interest" in the property to be sold and, if not, whether they have standing to raise any objections. In addition, as stated in the posted Producedures of Judge Bason (available at www.cacb.uscourts.gov):

§ 363(f): Sales free and clear. Regarding § 363(f)(5), Judge Bason does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under that statute whenever the interest at issue is subject to monetary valuation. *See In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, Judge Bason has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). *See* Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)).

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(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/21/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

(1) Current issues

This Court has reviewed the debtor's latest filed documents and is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/7/19 at 2:00 p.m., to be concurrent with the motion of the United States Trustee to convert or dismiss this case (dkt. 76, 90) and Debtor's 363 sale motion (dkt. 80). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required for the status conference, but not for the abandonment motion. Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Dismissal or conversion

Debtor's fourth status report alleges (dkt. 62, p.2:10) that a "363 motion, supported with a stalking horse bid, will be submitted to the court" at some unspecified future date. This Court and parties in interest have heard that hope before, but it appears highly unlikely that Debtor will receive a bid that will exceeding the losses that are accruing meanwhile.

Debtor's situation appears to be getting steadily worse, both on a cash basis and in terms of accrued liabilities for postpetition real property rent, equipment leasing, etc. See MOR for Jan. 2019 (dkt. 57) (small positive cash flow, but \$48,522.19 in postpetition payables as against \$6,281.31 receivables) *and* MOR for Feb. 2019 (dkt. 63) lines 22-25 (net cash flow of (\$1765.14) and increase in payables to \$96,380.19 - almost double the prior month - as against \$6,281.31 receivables - unchanged).

The tentative ruling is to dismiss this case and let Debtor and its secured creditors/equipment lessors make whatever arrangements they see fit for disposing of the collateral/leased equipment. (Office of the United States Trustee to lodge proposed order.)

(b) Motion to Compel Abandonment of Property (dkt. 59)

Grant. (Movant Shmashssma, LLC to lodge proposed order.)

Proposed orders: The above-referenced parties are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues.

Debtor's status report (dkt. 55) reports some alleged progress in exploring either sale(s) of assets or sale of the business or both. What is the timeline? What assurances do creditors have that debtor's uncertainty on these issues (two months into this case) will not deplete rather than enhance any potential recoveries?

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., with a *brief* status report due 3/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. Continue as set forth below.

(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19

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at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure

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to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#7.00 Cont'd Status Conference re: Removal
fr. 2/5/19, 4/9/19; 04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Tentative Ruling for 2/5/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 9) and the other filed documents and records in this adversary proceeding. Based on those documents it appears that both the plaintiff (Poser Investments, Inc., "Poser") and the Debtor-defendants agree that the four properties at issue either were never properly transferred or have been returned to Debtors, and either way they are now part of the bankruptcy estate. The principal remaining issues appear to be:

- (1) Will the other defendants contest that issue?
- (2) Does this Bankruptcy Court require jurisdiction over those other defendants (so as to enter a judgment against them, or at least against the interests that they previously asserted against the four properties), and if such jurisdiction is required, is such jurisdiction established by their appearance in the removed State Court action, or do they consent to *in personam*

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jurisdiction?

(3) Does the underlying default judgment obtained by Poser's predecessor in interest against Debtors have a preclusive effect against the Debtor-defendants?

(4) Does Poser have allowable secured claims against the four properties based on the *lis pendens* and abstracts of judgment?

The parties are directed to address whether there are different principal issues that this Court has not identified. In addition, the parties are directed to address why it would be necessary to have further discovery (in addition to what has already been conducted in the State Court) to address these issues. These appear likely to be resolved based on an application of the law to the undisputed facts, after briefing - e.g., motion(s) for summary judgment.

Meanwhile, it appears appropriate to order mandatory mediation, as set forth below.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014)

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(authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/10/18. The tentative ruling is not to set any deadlines (e.g., for cutoff of discovery) at this time, so as to provide time for mediation and/or motion(s) for summary judgment on potentially dispositive issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By

Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Pro Se

Elizabeth Ebuehi

Pro Se

Beta Alpha Holdings, LLC

Pro Se

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Olesegun Adenowo	Pro Se
1518 WATERS AVENUE TRUST,	Pro Se
619 WEST GLADSTONE STREET	Pro Se
2551 YORKSHIRE WAY TRUST,	Pro Se
1580 W. 2ND STREET TRUST,	Pro Se
DOES 1 through 100, inclusive	Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi	Represented By Anthony Obehi Egbase
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Plaintiff(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds
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2:18-20704 Finnian Osakpamwan Ebuehi

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Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#8.00 Cont'd hrg. re: Motion for Leave to File Cross-Complaint
fr. 04/30/19

Docket 16

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

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DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds

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2:18-20704 Finnian Osakpamwan Ebuehi

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Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#9.00 Cont'd hrg. re: Motion For Summary Judgment
fr. 04/30/19

Docket 13

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

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Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

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#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19, 4/9/19;
04/30/19

Docket 26

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

This Court had expected to issue a decision prior to the hearing, but has been unable to do so. The tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

Same.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 6/4/19 at 1:00 p.m. (to be concurrent with another pending motion, see dkt. 121). No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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Revised Tentative Ruling for 4/30/19:

Appearances required.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

(i) Evidentiary Objections of Poser Investments, Inc. ("Poser") (adv. dkt. 32)

The tentative ruling is to sustain Poser's Evidentiary Objections except as to lack of personal knowledge.

(ii) MSJ

The tentative ruling is to grant the MSJ (adv. dkt. 13) for the reasons stated in the MSJ and Poser's Reply (adv. dkt. 31). Rule 56 (Fed. R. Civ. P., incorporated by Rule 7056, Fed. R. Bankr. P.). But Judge Bason will have some questions for the parties at the hearing regarding the interaction of Federal, California, and other State law, and principles of claim and issue preclusion and retraxit.

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

The tentative ruling is to deny the Motion for Leave to File Cross-Complaint for the reasons stated in Poser's opposition (adv. dkt. 30).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 7/9/19 at 1:00 p.m., written status report due 7/2/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 2/26/19:

Continue as set forth below, with a deadline to file a draft plan and disclosure statement as set forth below. Appearances are not required on 2/26/19.

(1) Current Issues

(a) First Interim Fee Application (dkt. 72). Grant \$19,755.00 in fees and \$173.80 in expenses. *Proposed order*: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: file by 4/1/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

*Warning: special procedures apply (see order setting initial status conference).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 4/30/19 at 1:00 p.m., no written status report required.

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m. Appearances are not required on 1/29/19.

(1) Current Issues

(a) No current issues to address.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/26/19 at 1:00 p.m., Status Report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Appearances required

(1) Current Issues

(a) Budget Motion (dkt. 11)

Grant on a final basis.

(b) Amended Cash Collateral Motion (dkt. 50)

Grant on a final basis. Per Debtors' status report (dkt. 49, p.3), the

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proposed order must include language that it shall not be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23.

(c) Motion to Employ Counsel (dkt. 18)

Grant on a final basis, based on the (late-filed) declarations of Julius and John Adeoye (dkt. 57, 58). See Interim Order (dkt. 39) & Egbase Decl. (dkt. 47).

(d) Proposed orders

Debtors are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/29/19 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required by counsel for the debtor and by Debtors themselves.

(1) Current issues

(a) Status report (dkt. 43, 45)

Debtors have not used the Local Form, which is mandatory in this case (see Judge Bason's posted procedures, available at www.cacb.uscourts.gov). The tentative ruling is to set a deadline of 11/13/18 to file the form and serve it on the United States Trustee.

(b) Motion to Employ Debtors' Counsel (Dkt. 18)

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Debtors have not adequately addressed the issues in this Court's interim order (dkt. 39). Although proposed counsel declares (dkt. 47) that he has "learned" (from unspecified hearsay) that Debtors' relatives have funded the \$15,000 retainer as a gift, there is no declaration from the two alleged donors confirming this, and confirming all of their "connections" with all parties in interest and their attorneys and accountants (see dkt. 39, section 6.(a)), and their informed consent to potential or actual conflicts (*id.*, sec. 6.(c)), and Debtors' informed consent (*id.*, sec. 6.(d)). The tentative ruling is to continue this matter to the same time as the continued status conference (see below) and set a deadline of 11/13/18 to file appropriate declarations and serve them on the United States Trustee.

(c) MOR1 (Sept., 2018, dkt. 36)

Debtors report that they spent \$1,350.43 in cash, with no breakdown and just a vague description about "personal expenses," "charitable contributions," etc. The tentative ruling is that any proposed order authorizing the proposed budget must include a prohibition on Debtors spending more than \$50 cash on any one item or \$250 cash in the aggregate per month without attaching photocopies of receipts.

Several insurance policies have expired or are about to (see dkt. 36, at PDF p.16). What are Debtors doing about that?

(d) Motion to Use Cash Collateral (dkt 20)

First, Debtors failed to lodge a proposed order authorizing the use of cash collateral on the terms set forth in the adopted Tentative Ruling for 10/16/18 (see calendar no. 20, 11/6/18 at 1:00 p.m., which includes a copy of that earlier tentative ruling). The tentative ruling is to set a deadline of 11/13/18 to lodge that proposed order, with a copy of that tentative ruling attached.

Second, the original motion appears to have been superseded by an amended motion, which has not been separately filed and served but instead is attached as an exhibit to a supplemental declaration. See dkt. 29, Ex.B. The tentative ruling is to set a deadline of 11/13/18 to file and serve that motion, which will be heard at the same date and time as the continued status conference (see below).

Third, the tentative ruling is that no order granting Debtors' motions regarding cash collateral shall be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23. Debtors are directed to make this clear in their proposed orders.

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(b) Motion for Order Approving a Budget (Dkt. 11)

Grant on an interim basis, with a continued hearing at the same time as the continued status conference (see below). The tentative ruling is that Debtors' (late-filed) declaration (dkt. 29 & Ex.A) has adequately addressed this Court's concerns about charitable donations.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/18/18 at 1:00 p.m., *brief* status report due 12/11/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:16-21559 David MacMillan

Chapter 7

#11.00 Hrg re: Motion for turnover of estate property and accounting

Docket 355

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 12, 5/21/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, May 21, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#12.00 Cont'd Status Conference
fr. 4/9/19; 04/30/19

Docket 332

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances required.

(1) Current issues

(a) Calendaring

Continue the following matters to 6/11/19 at 2:00 p.m., to be concurrent with the motion for summary judgment in *Wyndham v. MacMillan et al.* (Adv. No. 2:17-ap-01229-NB, jointly administered with Adv. No. 2:17-ap-01551-NB), with no status reports required:

(i) Status Conference, *In re Attitude Marketing, Inc.* (Case No. 2:19-bk-10552-NB) (calendar no. 16, 5/21/19 at 2:00 p.m.).

(ii) Status Conference, *In re David MacMillan/Cynthia Martin* (Case No. 2:16-bk-21559-NB) (this calendar no. 12, 5/21/19 at 2:00 p.m.).

(iii) Motion for summary judgment in *Gonzalez v. MacMillan* (Adv. No. 2:17-ap-01545-NB) (originally self-calendared for 11:00 a.m. on 6/4/19, then moved by this Court sua sponte to 2:00 p.m. on 6/4/19).

(b) Chapter 7 Trustee's motion for turnover and accounting ("Turnover Motion," In re MacMillan, Case No. 2:16-bk-21559-NB, dkt. 355, 356), Opposition Declaration (dkt. 361), Reply (dkt. 362)

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

The tentative ruling is that Trustee has established on a *prima facie* basis that Debtors had an ownership interest in two Porches and three Lotus

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vehicles, and the burden is on Debtors to establish that they no longer have such an interest. The tentative ruling is that Debtors have only met that burden with respect to one vehicle (the Lotus as to which there is evidence of a sale to Debtor MacMillan's brother).

First, as a procedural matter, Debtors had an opportunity to respond to the Turnover Motion by the deadline established by the Local Bankruptcy Rules; they did not request additional time to respond; and, even if they had made such a request, they have not (on the present record) established any cause to be granted additional time. Second, based on the limited evidence provided by Debtors, they have not rebutted the Trustee's *prima facie* showing (except as to the one vehicle noted above).

For example, it appears that Debtors are the owners of record for at least three Lotus race cars - two Lotus Evoras and one Lotus 211. Dkt. 332, p. 6. Debtor MacMillan's declaration (dkt. 361) provides very little information about these vehicles.

Debtor MacMillan asserts that one Lotus vehicle was totaled around February 2012 (dkt. 361, p.3, para. 9), and that he no longer has any paperwork relating to that vehicle. But (i) the one photograph that he provides (allegedly of the subject vehicle) does not appear to show that it was totaled; (ii) he fails to explain why he lacks any paperwork; and (iii) normally one would expect to have paperwork regarding the loss of such a valuable vehicle, such as insurance papers, or tax returns for Debtor MacMillan or one of his businesses showing a write-off based on loss of the vehicle, or other records and documents. Although it is conceivable that there are explanations and documents that would establish that Debtor MacMillan does not still own this vehicle, he has not met his burden to rebut the Trustee's *prima facie* showing, and the deadline to do so has passed.

In addition, although the tentative ruling is that Debtor MacMillan has met his burden insofar as the unregistered 2011 Lotus Evora that allegedly was sold to his brother by Rasco/Racso (the spelling is unclear) in March 2016 (dkt. 361, p. 3, para 12), it appears that the Lotus Evora sold to Debtor's brother is not the same Lotus Evora mentioned in para. 10 (see dkt. 362, p.2:22-28). There is no evidence to rebut the *prima facie* showing as to that Lotus vehicle. Nor is there any evidence to rebut the *prima facie* showing as to the two Porches. Nor has Debtor Martin filed anything in response to the Turnover Motion.

The tentative ruling is to direct Debtors to turn over the two Lotus

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vehicles and the two Porches to the Chapter 7 Trustee, together with all associated papers and materials (e.g., car keys), **no later than 5/28/19**, or be subject to possible sanctions. This Court recognizes that, if Debtors truly do not possess some of these four vehicles, or if those vehicles belong to another entity, then perhaps they will be unable to turn over the vehicles despite any order of this Court directing them to do so. But the tentative ruling is that, having chosen not to take the Turnover Motion seriously enough to rebut the Trustee's *prima facie* showing, or to request additional time to do so, Debtors have waived and forfeited that opportunity, and the Turnover Motion must be granted.

Debtors' apparent remedy will be (i) to seek reconsideration (e.g., under Rule 9023), or, (ii) if they are held in contempt for violating the Turnover Motion, to meet their burden to show impossibility (or to establish any other viable defense to a finding of contempt). The parties should be prepared to address the present location and condition of the vehicles, where the Trustee needs them to be delivered, and any other specifics that this tentative ruling does not address.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue to 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.
Appearances are not required on 4/30/19.

This Court is not aware of any issues that warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required. The parties should be prepared to address the following issues.

Current issues

(a) Procedures

This Court issued its Order Setting Status Conference in All Related Matters (the "Procedures Order," dkt. 332). See *a/so* dkt. 334 & 338 (proofs of service). Among other things, the Procedures Order was prompted by the following.

First, an exhibit was filed without a cover page and with the exhibit pages out of order rendering the exhibit difficult to read (see dkt. 324, ex. 1). Second, briefs have gone on for 80 pages or more, with whole sections that appear to be at best tangentially related to the subject matter and appear to have been copied and pasted wholesale from other papers (but with no statement to let the reader know if those sections are or are not different in some way). See dkt. 326, 330. Third, those same papers, with exhibits included, are over 2000 pages long. Fourth, some papers appear to raise frivolous arguments (see below).

The tentative ruling is as follows with respect to procedures in all of the adversary proceedings and contested matters in these related bankruptcy cases:

(i) Page limits. Set a limit of 25 pages for any brief, and 50 pages of attached or accompanying documents, absent prior authorization to exceed those limits. The documents can be excerpts, marked up to point the reader to the relevant phrase or item, provided that (x) any original markings on the documents are clearly distinguishable from any added markings and (y) upon request full copies of all exhibits are immediately made available to all other parties and this Court.

(ii) Incorporation by reference. Direct all parties, rather than repeating their arguments and exhibits, to incorporate them by reference. In addition, to the extent any material does not exactly

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repeat prior material, but parallels prior material in substantial part, the tentative ruling is that the party must explain what is new or different.

For example, instead of a 10-page recitation of background facts in which one sentence is different, the party would replace those 10 pages with that one sentence and a brief summary of the relevant aspects of the prior material, with a cross-reference to the docket number of the material that is incorporated by reference. Alternatively, if the approach in the immediately preceding sentence would not be practical or would be confusing in any particular situation, then the party would add a footnote both at the start of the factual summary and at the start of the new or different sentence, to alert the reader that this is the portion that is new or different. Alternatively, the party could adopt any other suitable method for highlighting new or different material. In any event, all parties are directed to use whatever method is most reader-friendly for presenting accurate, relevant material.

(iii) Bifurcating or combining any matters, and issuing judgments on partial findings and/or final judgments on fewer than all claims or parties. The claim objections that are set for hearing today violate at least the spirit, and probably the letter, of Rule 3007(b) (Fed. R. Bankr. P.) ("A party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding."). In any event, any future claim objections involving the same nucleus of operative facts as any pending adversary proceeding must be raised through proper pleadings or motions in those adversary proceedings, not by separate claim objections.

In addition, there is no reason to litigate all of the numerous issues raised by the parties if it appears that it would be more efficient to litigate just one or two issues first, and enter judgements on partial findings, and/or enter final judgments as to fewer than all claims or parties (based on any express determination that there is "no just reason for delay") (Rules 52 & 54(b), Fed. R. Civ. P., incorporated by Rules 7052, 7054 & 9014(c), Fed. R. Bankr. P.). For example, if a hypothetical chapter 7 debtor were accused of dozens of acts and omissions that could warrant either

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nondischargeability of individual claims (11 U.S.C. 523) or denial of the entire discharge (11 U.S.C. 727), there might be no just reason not to enter a judgment determining a single issue, after bifurcation so as to have a separate trial on that issue. In this situation the single issue might be whether the hypothetical debtor had concealed or failed to maintain adequate recorded information (under section 727(a)(3)), which, if proven, presumably would moot the other issues under sections 523 and 727.

The parties are directed to address whether this Court should adopt such procedures for one or more issues in these cases and the related adversary proceedings and contested matters, or conversely whether this Court should combine various matters for joint hearings or trials. See Rule 42 (Fed. R. Civ. P., incorporated by Rules 7042 & 9014(c), Fed. R. Bankr. P.).

(iv) Testimony by declaration. Direct testimony must be presented by declaration, subject to live cross-examination and redirect (see Rule 611(a); *In re Gergely*, 110 F.3d 1448, 1451-52 (9th Cir. 1997); *In re Adair*, 965 F.2d 777, 779-80 (9th Cir. 1992)).

(v) Time limits. The parties are hereby put on notice that this Court at any time may limit their time for oral argument and presentation of their case. In addition, the parties are directed to address whether they would prefer that this Court impose such limits at this time, or at any pretrial conferences, or on the first day of trial, or during trial. See *generally*, Hon. Barry Russell, 2 *Bankr. Evid. Manual* (2018-19 Ed., Nov. 2018) 611:1, Examples 6&7).

(b) Objection by individual Debtors to Proof of Claim ("POC") No. 3 (dkt. 310)

Overrule the objection to POC No. 3, filed by Wyndham Vacation Resort, Inc ("Wyndham"), for the reasons stated in Wyndham's opposition (dkt. 326), and for the following additional reasons.

First, POC No. 3 has sufficient documentation and other information to establish its *prima facie* validity. Second, any lack of *prima facie* validity is not enough to disallow the claim under 11 U.S.C. 502. See *In re Orozco*, 2017 WL 3126797 (Case No. 2:13-bk-15745-NB, dkt. 132), and *In re Beoglyan* (Case No. 2:13-bk-22883-NB, dkt. 141).

The cases cited by Mr. MacMillan (dkt. 310, pp.2:28-3:1) are

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distinguishable or actually contrary to his position. See *In re Garner*, 246 B.R. 617 (9th Cir. BAP 2000) (when claim did have *prima facie* validity, opposition did not overcome that *prima facie* validity); and see *In re Stoecker*, 5 F.3d 1022, 1027-28 (7th Cir. 1993) (reversing disallowance of claim based on non-compliance with Rule 3001(f)); *In re Brunson*, 486 B.R. 759, 765-66, and 768-73 (Bankr. ND Tex. 2013) ("This court adheres to the majority view that a proof of claim may not be disallowed where the sole basis of objection is the creditor's failure to attach sufficient documentation under Bankruptcy Rule 3001") (emphasis added).

Indeed, as noted in *Brunson*, the 2011 amendments to "Bankruptcy Rule 3001(c)(2)(D), together with the Advisory Committee Note shedding light on its meaning, should end the debate." *Id.*, p.770 (emphasis added). Now it is clear that "[f]ailure to provide the required information does not itself constitute a ground for disallowance of a claim." *Id.* (quoting advisory committee note; emphasis added).

In view of the foregoing, the tentative ruling is that this objection to POC No. 3 is frivolous.

(c) Objection by individual Debtors to POC No. 18 (dkt. 312)

Overrule the objection to Americana Vacation Club and Stardust Vacation Club's ("Americana/Stardust") POC for the reasons stated in Americana/Stardust's opposition (dkt. 320) and for the same reasons as stated above in connection with POC No. 3. Debtors' Reply (dkt. 341) does not adequately address those reasons.

In view of the foregoing, the tentative ruling is that this objection to POC No. 18 is frivolous.

(d) Motion by individual Debtors to Dismiss bankruptcy case of Attitude Marketing, Inc. ("Attitude") (the "MTD," dkt. 307)

The tentative ruling is to deny the individual Debtors' MTD for the reasons stated in the Chapter 7 Trustee's opposition (dkt. 325) to the MTD, and for the following additional reasons.

As the Trustee notes, in this circuit a voluntary Chapter 7 debtor is entitled to dismissal of the case so long as such dismissal will cause no "plain legal prejudice" to interested parties, or perhaps just "legal prejudice" (without the "plain" modifier). *In re Leach*, 130 B.R. 855, 857 (9th Cir. BAP 1991) (citing pre-Bankruptcy Code case of *In re International Airport Inn*

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Partnership, 517 F.2d 510, 512 (9th Cir. 1975), and addressing how its principles should be applied under the Bankruptcy Code). The tentative ruling is that dismissal very much would cause plain legal prejudice to interested parties because dismissal would preclude the Trustee and creditors from using the bankruptcy process and powers (i) to investigate past and present alleged misconduct, (ii) to prevent acts and omissions for which there are grounds to be concerned, and which can drain the value of a potentially valuable asset of this bankruptcy estate, and (iii) to identify and recover any avoidable transfers.

Investigating all of these things is made all the more important by the allegations of a long history of Debtors purportedly evading judgments, settlement obligations, etc. Whether those allegations are accurate or not is an issue on which Debtors will have every legitimate opportunity to present arguments and evidence; but the tentative ruling is that they cannot avoid the determination of those bankruptcy-focused issues by obtaining a dismissal of their bankruptcy case.

Debtor's motion and reply papers (dkt. 339, 340) do not adequately address any of the foregoing, nor do they establish any reason why this Court would not recognize the Trustee's authority to file the bankruptcy petition pursuant to the Written Consent Of Shareholders In Lieu Of Meeting and the Written Consent Of Sole Director In Lieu Of Meeting attached to the Trustee's Opposition as Exhibit A (dkt. 325). The arguments attempting to dispute the Trustee's business judgment in causing Attitude's bankruptcy petition to be filed, or in filling out Attitude's bankruptcy schedules, or in administering Attitude's assets, are unpersuasive and unsupported by any meaningful evidence. The individual Debtors' flat denials of the claims against Attitude, without persuasive or even colorable arguments or evidence, are insufficient.

The tentative ruling is that the individual Debtors' arguments are frivolous. In any event, the paucity of those arguments only reinforces the need for the Trustee to take over management of Attitude.

Proposed orders: The Trustee and the Claimants are directed to lodge proposed orders on each of the foregoing matters "(1)(b)," "(c)," and "(d)" via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B). This Court will prepare an order on matter "(1)(a)."

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

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Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#13.00 Cont'd Status Conference re: Complaint Objecting
to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18, 4/9/19; 04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 14, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the adversary proceeding this proceeding is being jointly administered with (calendar no. 5, 4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Tentative Ruling for 1/30/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address (a) why they failed to file the required status report, (b) why the motions for joint administration/consolidation of the two closely related adversary proceedings have not been prosecuted, and (c) the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally*

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Stern v. Marshall, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not formalize the fact that the pending mediation includes this adversary proceeding by issuing an order to mediate this matter together with related adversary proceeding (2:17-ap-01229-NB)? The tentative ruling is to direct counsel for the defendants to lodge a proposed order to that effect.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

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Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#14.00 Cont'd Status Conference re: Complaint to Determine Nondischargeability of Debt fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 4/9/19; 04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19. The tentative ruling is to continue the hearings in these related adversary proceedings (calendar no. 13 & 14, 5/21/19) to the date of the continued status conference (see below).

(1) Current issues

The tentative ruling on the Motion to Compel (dkt. 104) and the Order to Show Cause ("OSC," dkt. 107) is to continue these matters as requested in the response of Aston Business Solutions, Inc. (dkt. 110, 111). This Court contemplates that the deadlines for completion of discovery and other matters will need to be extended, and the parties are directed to meet and confer and, if they can agree to new deadlines, lodge a proposed order. If they cannot agree, this Court anticipates setting new deadlines at the continued status conference.

(2) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(3) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

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Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 6/11/19 at 2:00 p.m. No written status report required.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

This Court has reviewed the latest filed documents in this adversary proceeding and is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

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Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Supplemental Tentative Ruling for 4/9/19:

The original tentative ruling (below) provides two inconsistent dates for a continued status conference: 4/30/19 at 11:00 a.m., 4/7/19 at 11:00 a.m. The latter [should be "former"] is correct. No status report required.

Tentative Ruling for 4/9/19:

Deny the motion to quash (with the possible exception of one aspect), address procedural issues, and then continue this Status Conference, all as set forth below. Appearances required.

Current issues:

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(b) Motion to Quash (adv. dkt. 84)

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The tentative ruling is that the motion to quash (adv. dkt. 84) by Aston Business Solutions, Inc. ("ABS") is unpersuasive, except perhaps for limitations as to time, which the parties are directed to address at the hearing.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(A) Analysis re motion to quash

ABS asserts only vague objections:

(1) Competitors?

ABS asserts that it and Plaintiff are competitors. How so?

The motion does not even disclose ABS' business. Is it a timeshare owner? Is it a timeshare operator? Is it something else? (As noted below, this Court expects that it has gleaned the answer from other documents, but the tentative ruling is that this lack of even such basic information in the motion is fatal to this argument.)

(2) Protected information?

ABS alleges that some sort of trade secrets or other confidential, privileged, or other type of protected information is involved. What sort of information? Why would a traditional privilege log and other tools be inadequate?

ABS complains that parties in interest in this bankruptcy case have shared information. But ABS fails to point to any prohibition on sharing information.

(3) Burden?

ABS alleges that the requested discovery is unduly burdensome. How so? Is it stored in thousands of boxes of paper files that are difficult to reach and review for some reason?

(4) Vagueness and overbreadth?

ABS alleges that the discovery requests are vague and overbroad. How so? ABS fails to provide any explanation or evidence to support this allegations.

(5) Discussion

Based on a question (not an answer) in excerpts from the deposition of ABS' President and shareholder, Glenn Chaffin, ABS may be a marketing company for "timeshare exit companies." Adv. dkt. 84, Ex.1 (Depo. Tr.

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1/24/19), p.95:22-23. But how does that make ABS a "competitor" of Plaintiff, with information that would constitute trade secrets, as opposed to a facilitator of (possibly) legitimate ways to exit timeshares, who sends out non-secret flyers and other publicly known marketing materials, and assists timeshare members in navigating contracts that are known to all the parties?

Such a facilitator theoretically could benefit Plaintiff, by replacing non-paying or troubled members with paying ones - unless, of course, ABS engages in acts that improperly interfere with contractual relations or otherwise assists in the wrongdoing of which Plaintiff accuses Defendants. Plaintiff's discovery appears to be targeted at discovering information that could lead to admissible evidence on this and other relevant issues. Accordingly, the discovery appears to be entirely proper and appropriate, with the possible exception of the movant's request to impose some limitations as to time, which the parties are directed to address at the hearing.

(B) Adversary proceeding status conference issues

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Continued status conference: 4/30/19 at 11:00 a.m., no status report required.

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

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Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

This Court has reviewed the latest filed documents in this adversary proceeding, including the parties' status reports (dkt. 89, 91). This Court is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for completion of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss

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the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).

Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).

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Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).

Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).

Dispositive motions to be heard no later than: TBD

Joint Status Report: 3/12/19.

Continued status conference: 3/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

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Chapter 7

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01485 Gonzalez v. Macmillan et al

#15.00 Cont'd Pretrial Conference re: Complaint for Fraudulent
Transfer and Declaratory Relief
fr. 12/5/17, 02/13/18, 3/20/18, 4/17/18, 07/17/18, 08/14/18,
10/16/18, 11/27/18, 12/11/18, 1/29/19, 03/05/19, 3/26/19,
4/9/19; 04/30/19

Docket 1

Tentative Ruling:

**Tentative Ruling for 5/21/19:
Appearances required.**

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 10, 11).

(2) Deadlines and motions in limine

This adversary proceeding has been pending since 9/26/17. Trial is set to commence on 5/28/19 at 9:00 a.m., and the legal and factual issues are as set forth in the pretrial order (adv. dkt. 106). The parties should be prepared to address the motions in limine/objections to testimony (see adv. dkt. 74-105 and 107-115). The parties are reminded that, except for documents already on the docket, the deadline to deliver proposed trial exhibits to other parties and chambers (2 copies to chambers) is 5/23/19 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures, posted at www.cacb.uscourts.gov) then search for "Trial Practice").

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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[PRIOR TENTATIVE RULINGS OMITTED for brevity]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#15.10 Order to Show Cause re: Motion to Compel Aston Business Solutions, Inc. to Produce Documents and Related Relief

Docket 104

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 14, 5/21/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#16.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19; 04/30/19

Docket 43

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 4/30/19 at 11:00 a.m.)

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#17.00 Hrg re: Final Fee Application for Approval of Professional Compensation for Legal Services Rendered and Reimbursement of Expenses Incurred by Debtor's Counsel, Nicholas W Gebelt
Period: 10/16/2017 to 4/30/2019

Docket 431

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#18.00 Cont'd hrg re: Motion to Withdraw as Bankruptcy Counsel
fr. 5/7/19

Docket 418

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 5/7/19

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#19.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19, 5/7/19

Docket 1

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22648 Checkmate King Co., LTD

Chapter 11

#20.00 Hrg re: Final Fee Application for Approval of Professional Compensation for Legal Services for Robert M Aronson

Docket 299

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:17-22648 Checkmate King Co., LTD

Chapter 11

#21.00 Cont'd hrg re: Motion to Withdraw as Bankruptcy Counsel
fr. 5/7/19

Docket 294

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:17-22648 Checkmate King Co., LTD

Chapter 11

#22.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19, 5/7/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.4, 4/30/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

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Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 6/12/18:
Appearances required.**

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.

(c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

Appearances required.

(1) Current issues.

(a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

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(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB,

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CONT... **Checkmate King Co., LTD** **Chapter 11**

dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

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(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on a final basis.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:17-22648 Checkmate King Co., LTD

Chapter 11

Adv#: 2:18-01062 Checkmate King Co., LTD v. Radiology Solutions Corp. et al

#23.00 Cont'd Status Conference re: Complaint for (1) Breach of Contract; (2) Claim and Delivery; (3) Conversion; (4) Breach of Guaranty; (5) Fraud; (6) Preliminary Injunction; and (7) Constructive Trust fr. 5/8/18, 6/12/18, 6/19/18, 07/10/18, 08/14/18, 9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/15/19, 3/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling from the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

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Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18 (same as for 6/19/18):

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 2, 7/10/18 at 2:00 p.m.).

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current Issues.

(a) Joint Status Report and Notice of Continuances. This Court's 5/8/18 tentative ruling (see below) was not opposed, so it became this Court's actual ruling.

This Court directed (i) Checkmate to file and serve a notice of continuances attaching and incorporating by reference the deadlines in that tentative ruling by 5/7/18, and (ii) the parties to file a brief joint status report by 5/29/18. As of the preparation of this tentative ruling, none of the parties have complied. The parties are cautioned that failure to abide by applicable deadlines in future may result in adverse consequences.

(b) Motion for TRO & Claim and Delivery (adv. dkt. 10).

Plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") has filed a stipulation (adv. dkt. 30) with defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") for turnover of equipment. But Checkmate has not provided any evidence that it has relief from the automatic stay and consent of the Chapter 7 Trustee in the RS and Fower bankruptcy cases for such turnover (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA). The tentative ruling is

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Chapter 11

to set a deadline of 6/19/18 for Checkmate to file a declaration attaching evidence sufficient to establish those things, and lodge a revised proposed order to approve the stipulation.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time. Continue to 7/17/18 at 2:00 p.m., *brief* joint status report due 7/3/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

The tentative ruling is to continue all pending matters in this adversary proceeding to 6/12/18 at 2:00 p.m. for the reason stated below, with a brief joint status report due 5/29/18, and with a deadline of 5/7/18 for the plaintiff to file and serve a notice of continuances attaching and incorporating by reference the deadlines in this tentative ruling (assuming that this Court is not persuaded to depart from this tentative ruling). Appearances are not required on 5/8/18.

(1) Current Issues. This Court has reviewed the parties' status reports (adv. dkt. 24 & 26) and the other filed documents and records in this adversary proceeding.

(a) Motion for TRO & Claim and Delivery (adv. dkt. 10). At the 4/9/18 hearing on this motion, counsel for plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") apprised this Court of the bankruptcy filings of defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA) and requested a continuance of this hearing to allow time to obtain orders granting relief from stay with annulment. In the Joint status report (adv. dkt. 24), Checkmate states that the hearings on the relief from stay motions are scheduled for 5/15/18.

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CONT... Checkmate King Co., LTD

Chapter 11

Accordingly, the tentative ruling is to continue this motion to the date and time set forth at the start of this tentative ruling.

(b) Siemens Motion to Dismiss (adv. dkt. 27, the "MTD"). Defendant Siemens Medical Solutions USA, Inc. ("Siemens") has properly self-calendared its MTD for 6/12/18 at 11:00 a.m. Siemens anticipates that it may be voluntarily dismissed by plaintiff (see adv. dkt. 24), but if that does not occur then this Court anticipates that the MTD may take 15 minutes or more to hear. This Court's practice is that matters anticipated to take 15 minutes or more are heard on the 2:00 p.m. calendar (not available for self-calendaring, except by permission of this Court). Therefore the tentative ruling is to re-calendar the MTD from 11:00 a.m. to 2:00 p.m., which is concurrent with the other matters in this adversary proceeding that are on today's calendar.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

Defendant(s):

Radiology Solutions Corp.

Represented By
Vatche Chorbajian

George Tyler Fower

Represented By
Vatche Chorbajian

Siemens Medical Solutions USA Inc

Represented By

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Marsha A Houston

Plaintiff(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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Hearing Room 1545

9:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01485 Gonzalez v. Macmillan et al

#1.00 Trial re: Complaint for Fraudulent Transfer and Declaratory Relief
fr. 12/5/17, 02/13/18, 3/20/18, 04/17/18, 07/17/18, 08/14/18, 10/16/18,
11/27/18, 12/11/18, 1/29/19, 03/05/19, 03/26/19

Docket 1

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19

Docket 1

Tentative Ruling:

Tentative Ruling for 5/28/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Motion re Insurance Financing (dkt. 839)

Debtor's declaration of service (dkt. 844) is insufficient. The declarant states that "All parties on the Court-approved short service list and the United States Trustee [were] served by U.S. mail" (*id.*, p.2, para.3) but there is no attached "short service list" with addresses (as required by both the rules and the mandatory form of proof of service, *see id.*, p.3, para.2). The tentative ruling is to grant the motion contingent on filing an amended declaration of service that includes the missing list.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/18/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Dana Hollister

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Continue as set forth below (to be concurrent with Debtor's premium financing motion (dkt. 839, 841)). This Court anticipates further continuing this status conference at a later date, per Debtor's request in the status report (dkt. 836). Appearances are not required on 5/21/19.

(1) Current issues.

This Court has reviewed the latest filed documents, and is not aware of any issues that would warrant a status conference at this time.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/28/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

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CONT...

Dana Hollister

Chapter 11

(a) Sale procedures motion, re leasehold interest in 1629 Griffith Park Blvd. (dkt. 778)

Grant, with a reservation of all rights for the Presbytery of the Pacific (the "Presbytery") with respect to any objection to the sale motion, including but not limited to any objection to assumption and assignment of the leasehold and Debtor's development and guaranty obligations. In addition, the parties are directed to address the deadline(s) and procedures for any objections by the Presbytery, given the short time between the proposed auction date (6/25/19), any filing of evidence of assurance of future performance, and the proposed sale hearing date (7/2/19). See dkt. 815, p.9, n.4.

In addition, the proposed notice (dkt.815, Ex.2) must specify that the hearing time is 2:00 p.m. (on 7/2/19). See *id.*, p.74, section VIII (entitled "Sale Hearing"). In addition, the proposed notice should be amended to clarify that any Backup Bid will be not just the "next highest" but the "next highest and best" bid after the Successful Bid (as determined by the Agent after consultation with Debtor and confirmation by this Court).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/21/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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1:00 PM

CONT... Dana Hollister

Chapter 11

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Hrg. re: Motion for Order Authorizing Debtor to Enter Into
Post-Petition Insurance Premium Financing Agreement

Docket 839

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2,
5/28/19 at 1:00 p.m.)

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:14-24842 Ali Rahimi

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

SUNTRUST BANK
vs
DEBTOR

Docket 64

Tentative Ruling:

Take this motion for relief from the automatic stay off calendar, in view of this Court's order (dkt. 73) granting the debtor's motion to commence loan modification program, without prejudice to the movant self-calendaring this motion again if the loan modification program is terminated without a consensual loan modification. Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ali Rahimi

Represented By
Stella A Havkin

Movant(s):

SunTrust Bank as attorney in fact for

Represented By
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:14-33694 Manuel Venegas

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

HSBC BANK USA, N.A.
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... Manuel Venegas

Chapter 13

Party Information

Debtor(s):

Manuel Venegas

Represented By
Matthew D. Resnik

Movant(s):

HSBC Bank USA, N.A.

Represented By
Keith Labell
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:18-15232 Thelma Gladis Gonzalez

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 50

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... Thelma Gladis Gonzalez

Chapter 13

Party Information

Debtor(s):

Thelma Gladis Gonzalez

Represented By
Matthew D. Resnik

Movant(s):

U.S. Bank National Association, as

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:18-15891 Veronica Verdin

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 23

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 25).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Veronica Verdin

Represented By
Thomas B Ure

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry
Eric P Enciso
Theron S Covey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... Veronica Verdin

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:18-20277 Steve Tony Stargen

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 44

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Steve Tony Stargen

Represented By
Kevin T Simon

Movant(s):

U.S. Bank National Association

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:18-22162 Kenya B. Simmons

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

HSBC BANK USA, N.A.
vs
DEBTOR

Docket 27

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Kenya B. Simmons

Represented By
Barry E Borowitz

Movant(s):

HSBC Bank USA, N.A., as Trustee

Represented By
Arnold L Graff
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:19-11430 Marie Leola Faith Ward

Chapter 7

#7.00 Hrg re: Motion for relief from stay [RP]

CALIBER HOME LOANS, INC.
vs
DEBTOR

Docket 12

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... Marie Leola Faith Ward

Chapter 7

Party Information

Debtor(s):

Marie Leola Faith Ward

Represented By
Onyinye N Anyama

Movant(s):

Caliber Home Loans, Inc.

Represented By
Christina J O

Trustee(s):

Elissa Miller (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#8.00 Hrg re: Motion for relief from stay [RP]

KARL S. REINECKER, AN ACCOUNTANCY CORP.
VS
DEBTOR

Docket 56

*** VACATED *** REASON: This matter is scheduled to be heard during
the 1:00 p.m. time frame. Please see matter #2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Movant(s):

Karl S. Reinecker, An Accountancy

Represented By
Lewis R Landau

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#9.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA, INC.
vs
DEBTOR

Docket 170

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... Glynder Lucas Striggs

Chapter 11

Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

Movant(s):

Santander Consumer USA Inc.

Represented By
Randall P Mroczynski

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:17-19677 John Charles Parker, II and Patricia Lynne Parker

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]

ACAR LEASING LTD
vs
DEBTOR

Docket 63

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... John Charles Parker, II and Patricia Lynne Parker

Chapter 13

Party Information

Debtor(s):

John Charles Parker II

Represented By
Julie J Villalobos

Joint Debtor(s):

Patricia Lynne Parker

Represented By
Julie J Villalobos

Movant(s):

ACAR Leasing LTD dba GM

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:18-18131 Alexander Dela Cruz Del Rosario and Marie Chita-Linda

Chapter 13

#11.00 Hrg re: Motion for relief from stay [PP]

EXETER FINANCE, LLC
vs
DEBTOR

Docket 63

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alexander Dela Cruz Del Rosario

Represented By
Sevan Gorginian

Joint Debtor(s):

Marie Chita-Linda Vergara Del

Represented By
Sevan Gorginian

Movant(s):

Exeter Finance, LLC

Represented By
Cheryl A Skigin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:19-14775 Rhonda Bear

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

AUTO FINANCIAL SERVICES, INC
vs
DEBTOR

Docket 15

Tentative Ruling:

Appearances required.

Current issues:

(1) Motion for relief from stay (dkt. 15)

There is no tentative ruling, but the parties should be prepared to address (a) whether the movant is adequately protected by the current insurance (dkt. 20, Ex.A to Shevitz Decl., last page) and the pre-confirmation adequate protection payments included in Debtor's proposed chapter 13 plan; and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 20).

(2) Evidentiary objections to supplemental declaration of Marianna Demirchian ("Evidentiary Objections," dkt. 21)

The tentative ruling is to sustain the objection to dkt. 15, at PDF p. 20, paras. 5&6, insofar as the declarant asserts (a) that the cancellation of the insurance was intentional and (b) that Debtor threatened violence against the repossession agent (and the details of that encounter) (but see below). Those statements are hearsay per Rule 802 (Fed. Rul. Evid., "FRE") and the declarant does not have personal knowledge of the facts alleged per FRE 602.

The tentative ruling is to overrule the objection to the extent, if any, that it disputes that the insurance was in fact canceled. That is admissible because the declarant has authenticated, as a business record, the printout from the insurance carrier (which is a business record on which the declarant's business relies and therefore is admissible). See *MRT Constr. Inc. v. Hardrives, Inc.*, 158 F.3d 478, 483 (9th Cir. 1998) ("records a business receives from others are admissible under [FRE 803(6)] when those records

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... Rhonda Bear

Chapter 13

are kept in the regular course of that business, relied upon by that business, and where that business has a substantial interest in the accuracy of the records.").

Despite the foregoing, Movant has provided evidence (the repossession agent's declaration, dkt. 22) of Debtor's alleged threats to the repossession agent, and the other circumstances of the repossession. The tentative ruling is that these statements are admissible.

(3) Turnover of vehicle

Debtor's response to the R/S Motion suggests that Movant is required to turn over the vehicle and that failure to do so constitutes a violation of the automatic stay. First, that issue has not been briefed and is not squarely presented because Debtor has not filed any motion for turnover and/or for remedies for the purported violation of the automatic stay.

Second, to the extent that issue might be relevant in addressing the R/S Motion, this Court is not persuaded on the present record that there is any turnover obligation or violation of the automatic stay, unless and until this Court makes a ruling that the Movant will be adequately protected if it is required to turn over the vehicle. See *In re Hayden*, 308 B.R. 428 (9th Cir. BAP 2004)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rhonda Bear

Represented By
David Samuel Shevitz

Movant(s):

AUTO FINANCIAL SERVICES,

Represented By
Michael D Vanlochem

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... Rhonda Bear

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:18-24853 Ray A. Brown, Jr.

Chapter 13

#13.00 Hrg re: Motion for relief from stay [UD]

GREEN BAY LLC
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... Ray A. Brown, Jr.

Chapter 13

Party Information

Debtor(s):

Ray A. Brown Jr.

Represented By
Joseph A Weber
Fritz J Firman

Movant(s):

Thomas B. Ure

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:19-14245 Joel Chapela

Chapter 13

#14.00 Hrg re: Motion for relief from stay [UD]

VANDERBILT MORTGAGE AND FINANCE, INC.
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply, for three alternative reasons

(1) The stay expired after 30 days

Grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:19-bk-12412-VZ) was dismissed (on 3/26/19) within one year before this case was filed (on 4/15/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

(2) Debtor did not satisfy section 362(b)(22) & (l)

The movant obtained a prepetition unlawful detainer judgment, and Debtor has not satisfied the statutory requirements to remain in possession. See 11 U.S.C. 362(b)(22) and (l).

(3) Debtor has no cognizable interest in the property

The movant obtained a prepetition eviction judgment and writ of possession. See *In re Perl*, 811 F.3d 1120, 1127-28 (9th Cir. 2016) ("We conclude that under California law, entry of judgment and a writ of possession following unlawful detainer proceedings extinguishes all other legal and equitable possessory interests in the real property at issue.").

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT...

Joel Chapela

Chapter 13

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT... **Joel Chapela** **Chapter 13**
Grant the request to waive the 14-day stay provided by FRBP 4001(a)
(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joel Chapela Pro Se

Movant(s):

Vanderbilt Mortgage and Finance, Represented By
Mark S Blackman

Trustee(s):

Kathy A Dockery (TR) Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:15-15596 Dion Paul Jensen and Christy Ann Jensen

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/7/19

WELLS FARGO BANK, NA
VS
DEBTOR

Docket 56

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Dion Paul Jensen

Represented By
David Lozano

Joint Debtor(s):

Christy Ann Jensen

Represented By
David Lozano

Movant(s):

Wells Fargo Bank, N.A., et al

Represented By
Cassandra J Richey
Melissa A Vermillion
Asya Landa
Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:15-23009 Terry Tramble

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/02/19; 04/30/19

WILMINGTON TRUST, NATIONAL ASSOCIATION
vs
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 6/4/19 (same as for 4/30/19):
Appearances required.

At the hearings on 4/2/19 and 4/30/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:
Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

CONT...

Terry Tramble

Chapter 13

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Terry Tramble

Represented By
John M Boyko

Movant(s):

WILMINGTON TRUST,

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:16-14777 Danney Tarence Lewis and Katrina S. Lewis

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 02/26/19, 3/26/19; 04/30/19

MIDFIRST BANK
vs
DEBTOR

Docket 45

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Danney Tarence Lewis

Represented By
Jeffrey N Wishman

Joint Debtor(s):

Katrina S. Lewis

Represented By
Jeffrey N Wishman

Movant(s):

MidFirst Bank

Represented By
Kelsey X Luu
Arnold L Graff
Cassandra J Richey
Darlene C Vigil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:16-21902 Jose Alberto Ramos and Vanessa Ramos

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 09/04/18, 10/16/18, 12/18/18, 01/29/19, 03/05/19

OCWEN LOAN SERVICING, LLC
vs
DEBTOR

Docket 60

Tentative Ruling:

Tentative Ruling for 6/4/19 (same as for 3/5/19, 1/29/19, 12/18/18, 10/16/18):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the

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CONT... **Jose Alberto Ramos and Vanessa Ramos**

Chapter 13

automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Alberto Ramos

Represented By
Claudia C Osuna

Joint Debtor(s):

Vanessa Ramos

Represented By
Claudia C Osuna

Movant(s):

Ocwen Loan Servicing, LLC

Represented By
Seth Greenhill
Keith Labell
Theron S Covey
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:17-25335 Alice H. Liu

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/7/19

WILMINGTON SAVINGS FUND SOCIETY, FSB
VS
DEBTOR

Docket 34

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Alice H. Liu

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

Wilmington Savings Fund Society,

Represented By
Asya Landa
Alexander G Meissner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

2:18-20659 Dejah Myles

Chapter 13

#20.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 30

Tentative Ruling:

Tentative Ruling for 6/4/19

Appearances required. At the hearing on 5/21/19 Debtor's counsel appeared and, although no notice had been provided to Movant of Debtor's intent to contest the tentative ruling, this Court was persuaded to continue the hearing (per the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, which address this situation). This Court noted that the tentative ruling for 5/21/19 (reproduced below) contemplated a 14-day stay (Rule 4001(a)(3), Fed.R.Bankr.P.), but that this Court will waive that stay if an adequate protection order is not ordered at the continued hearing.

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within

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CONT... **Dejrah Myles**

Chapter 13

7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dejrah Myles

Represented By
Thomas B Ure

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:19-11193 Edgar R Ayon

Chapter 7

#21.00 **[CASE DISMISSED ON 5/10/19]**

Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19

US BANKRUPTCY TRUST
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 6/4/19:

Grant in part, as to relief from the automatic stay in this case, and deny in part, as to any "*in rem*" relief, for lack of prosecution: as of the preparation of this tentative ruling, the docket does not reflect that Movant has cured the deficiency noted in this Court's tentative ruling for 5/21/19 (reproduced below). Appearances are not required on 6/4/19.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay.
See 11 U.S.C. 349(b)(3) & 362(c).

Option for partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling.

Reasons:

(1) Service.

The motion papers were not served on the original borrower (dkt. 32 at PDF p. 54) as required under Local Bankruptcy Rule 4001-1(c)(1).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Edgar R Ayon

Chapter 7

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19

Grant in part, continue in part to 6/4/19 at 10:00 a.m. to address the following issues. Appearances are not required on 5/21/19.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Reasons:

(1) Service.

The motion papers were not served on the original borrower (dkt. 32 at PDF p. 54) as required under Local Bankruptcy Rule 4001-1(c)(1).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edgar R Ayon

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT... Edgar R Ayon

Chapter 7

Movant(s):

US Bankruptcy Trust NA as trustee

Represented By
Kristin A Zilberstein

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:19-12964 John Martin Kennedy

Chapter 13

#22.00 Hrg re: Motion for relief from stay [NA]

JOHN MARTIN KENNEDY
vs
DEBTOR

Docket 39

Tentative Ruling:

Grant as provided below, subject to any opposition (due 5/31/19, which is after the time this tentative ruling has been prepared). See Order Shortening Time ("OST," dkt. 36). Appearances required if an opposition is filed; but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection

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CONT... **John Martin Kennedy**

Chapter 13

of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

This Bankruptcy Court emphasizes that it does not seek in any way to impinge on the authority of the Nonbankruptcy Courts presiding over the nonbankruptcy action. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage this bankruptcy case. Those obligations including taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and preserving the bankruptcy estate by placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding

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10:00 AM

CONT...

John Martin Kennedy

Chapter 13

involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

The tentative ruling is that these factors, and the other facts and circumstances, weigh in favor of granting relief as set forth above. Most significantly, Debtor is the party seeking relief from the automatic stay; Debtor is appealing the attorney's fees award, which is a matter of state law over which this Federal Court has no power to exercise appellate review; and it appears that resolution of the disputed issues in the State Courts is appropriate in the interests of judicial economy, the expeditious and economical determination of litigation for the parties, and comity.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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10:00 AM

CONT... John Martin Kennedy Chapter 13
by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Movant(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

10:00 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#23.00 Hrg re: Motion for relief from stay [RP]

WV SPE 2017-2A, LLC
vs
DEBTOR

Docket 75

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) as to modifying the abstract of judgment only.

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because the Movant has not demonstrated that Debtors participated in a scheme to delay, hinder, or defraud creditors.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

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Hearing Room 1545

10:00 AM

**CONT... Rene Medina and Maria Medina
(3).**

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

WVJP 2017-2, LP

Represented By
Mohammad Tehrani

WV SPE 2017-2A, LLC

Represented By
Mohammad Tehrani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:19-10153 Christian Rossil

Chapter 11

Adv#: 2:19-01089 Rossil v. Moreno

#1.00 Status Conference re: Complaint for a Determination of the Validity, Priority or Extent of Liens and Security Interests

Docket 1

Tentative Ruling:

Appearances required. This Court has reviewed the filed documents and records in this adversary proceeding. The parties have failed to file a Joint Status Report as of the time of this tentative ruling.

Preliminary Issues

(1) No Status Report

The parties have not filed a Joint Status Report. Why not?

(2) Failure to Join Indispensible Party

Based on Plaintiff's Complaint, Plaintiff jointly owns the property with his mother, Judith J. Rossil, and they are both jointly liable on the loan in question. Adv. dkt. 1. Ms. Rossil appears to be a required party because she "claims an interest relating to the subject of the action" and "disposing of the action may as a practical matter impair or impede [her] ability to protect the interest." Fed. R. Civ. P. 19(a)(1)(B). Required parties *must* be joined to the action. Fed. R. Civ. P. 19(a)(1). The parties should be prepared to address why this case should not be dismissed for failure to join a required party. Fed. R. Civ. P. 19(a)(1).

(3) Default

Presuming that Plaintiff's case survives any procedural concerns, Defendant has not filed an answer in this case. Debtor would need to request an entry of default and then file a motion for default judgment. The tentative ruling is that any default judgment will require a prove-up motion per Rule 55(b)(2) (Fed. R. Civ. P., incorporated by Rule 7055, Fed. R. Bankr. P.). See, e.g., *In re Beltran*, 182 B.R. 820 (9th Cir. BAP 1995). This Court anticipates that any such motion must be accompanied by an authenticated copy of the closing statement for the subject loan, showing the distribution of all funds.

Providing only a bank statement allegedly reflecting receipt of net proceeds, as Plaintiff/Debtor has done, is not enough. That ignores

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CONT... Christian Rossil

Chapter 11

transaction costs and any transfers out of escrow to other persons.

The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 6/18/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 3/27/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

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CONT...

Christian Rossil

Chapter 11

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 7/23/19.

Continued status conference: 7/30/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order:N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Defendant(s):

Laura Z. Nalvarte Moreno

Pro Se

Plaintiff(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

11:00 AM

2:18-24615 Maricela Correa Contreras

Chapter 13

Adv#: 2:19-01087 Rizo v. Contreras

#2.00 Status Conference re: Complaint to Determine Dischargeability

Docket 1

***** VACATED *** REASON: another summons issued; reset to 7/30/19 at
11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maricela Correa Contreras

Represented By
Sunita N Sood

Defendant(s):

Maricela Correa Contreras

Pro Se

Plaintiff(s):

Laura Rizo

Represented By
Chad M Gordon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

11:00 AM

2:18-24612 Robert Panosian

Chapter 7

Adv#: 2:18-01457 Los Angeles Federal Credit Union v. Panosian

#3.00 Hrg re: Motion for Default Judgment

Docket 8

Tentative Ruling:

Please see tentative ruling in status conference (cal. no. 4, 6/4/19 at 11:00 a.m.).

Party Information

Debtor(s):

Robert Panosian

Represented By
Christopher S Reyes

Defendant(s):

Robert Panosian

Represented By
Kurt Zimmerman

Movant(s):

Los Angeles Federal Credit Union

Represented By
Alana B Anaya

Plaintiff(s):

Los Angeles Federal Credit Union

Represented By
Alana B Anaya

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

11:00 AM

2:18-24612 Robert Panosian

Chapter 7

Adv#: 2:18-01457 Los Angeles Federal Credit Union v. Panosian

#4.00 Cont'd Status Conference re: Complaint to Determine the Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(2)(A) fr. 03/05/19, 5/7/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances are not required on 6/4/19.

(1) Motion for Default Judgment (dkt. 8)

(a) A default judgment appears to be appropriate

The tentative ruling is to grant the Motion for Default Judgment based on Defendant's consistent failure to properly appear in this case. Although a trial on the merits is favored over a default judgment, it appears that entering a default judgment is appropriate in these circumstances. Fed. R. Civ. P. 55(b)(2).

First, despite this Court's oral rulings requiring mediation (as contemplated in the tentative rulings for 3/5/19 and 5/7/19, reproduced below), Defendant has failed to attend mediation or seek relief from those orders. Second, despite the fact that the Clerk of this Court has entered a default against Defendant (adv. dkt. 5), he has not filed any motion for relief from such default. Instead he has filed a (late) answer (dkt. 6) that appears to be nothing but a generic denial of everything and assertion of boilerplate, generic defenses. Third, Defendant's lack of any meaningful participation in this adversary proceeding is prejudicial. Plaintiff has incurred all the post-judgment attorney fees and costs of this nondischargeability action, while Defendant is incurring far fewer fees and costs by barely participating in this litigation.

(b) Nature of default judgment

Because there is a prepetition state court judgment of \$11,622.46, it is not appropriate for this Bankruptcy Court to issue a new award of such damages. Rather, it appears that the proper course is for this Bankruptcy Court to issue a declaratory judgment that the State Court judgment is non-

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CONT...

Robert Panosian

Chapter 7

dischargeable as to Defendant under 11 U.S.C. 523(a)(2)(A) and 523(a)(2) (B). In addition, Plaintiff is entitled to ongoing pre- and postpetition interest on the State Court judgment, at the post-judgment interest at the California rate of 10% per annum based on Cal. Civ. P. Code 685.010(a). *In re Hamilton*, 584 B.R. 310, 323-24 (9th Cir. BAP 2018). Additionally, the tentative ruling is to award Plaintiff \$1,297.34 in attorney's fees, plus \$350.00 in the cost of suit. See LBR 7055-1(b)(4).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Mediation: This Court ordered the parties file a mediation order by 3/19/19. Based on Plaintiff's Status Report (dkt. 12), it appears Defendant and his counsel have not cooperated in scheduling a mediation. The parties should be prepared to address whether this Court should enter an Order to Show Cause as to why Defendant and his counsel are not in contempt for failing to abide with this Court's mandatory mediation order. In addition, or in the alternative, should Plaintiff and this Court proceed to address a default judgment?

(2) Deadlines: This adversary proceeding has been pending since 12/26/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: N/A

Continued status conference: 6/13/19 at 11:00 a.m.

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CONT...

Robert Panosian

Chapter 7

Lodge Joint Proposed Pre-Trial Order:N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Preliminary matters:

(1) No status report

The parties have failed to file any joint status report. Why not?

(2) Stay all proceedings pending mediation

This Court has reviewed the filed documents and records in this adversary proceeding. This Court notes that a Default was entered in this case on 2/7/19 (dkt. 5); Defendant/Debtor then filed an answer on 2/8/19 (dkt. 6); Plaintiff then filed a Motion for Default Judgment on 2/11/19 (dkt. 8), which is set for hearing on 3/26/19 at 11:00 a.m. The tentative ruling is to stay all proceedings and order mandatory mediation.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

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11:00 AM

CONT... Robert Panosian

Chapter 7

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 3/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/26/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 4/23/19

Continued status conference: 5/7/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order:N/A

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CONT...

Robert Panosian

Chapter 7

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Robert Panosian

Represented By
Christopher S Reyes

Defendant(s):

Robert Panosian

Represented By
Kurt Zimmerman

Plaintiff(s):

Los Angeles Federal Credit Union

Represented By
Alana B Anaya

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 4, 2019

Hearing Room 1545

11:00 AM

2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

#5.00 Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt Pursuant to Sections 523 and 727 of the United States Bankruptcy Code fr. 9/4/18,10/9/18, 11/27/18, 01/08/19, 2/5/19, 03/05/19; 04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties are directed to address why the docket does not reflect any steps to finalize their reported settlement (e.g., a motion in this adversary proceeding to approve a stipulated judgment, and/or if necessary a motion in the bankruptcy case to approve a settlement per Rule 9019, Fed. R. Bankr. P.). This adversary proceeding has been pending since 6/22/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue this status conference to 6/4/19 at 11:00 a.m. so that the parties can document their settlement and obtain any approval of Court that may be necessary or appropriate. See Status Report (adv. dkt. 19). Appearances are not required on 4/30/19.

If appearances are not required at the start of this tentative ruling but you

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CONT... Douglas Lawrance DeCoster

Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 3/5/19:
Appearances required.**

The parties are directed to address (1) why no status report was filed as required by the adopted 2/5/19 tentative ruling, and (2) whether the parties have scheduled and/or attended mediation.

The tentative ruling is to continue this status conference to 4/9/19 at 11:00 a.m, with a brief status report due by 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue to 3/5/19 at 11:00 a.m, with a brief status report due by 2/26/19. Although the latest Status Report (adv. dkt. 16) does not address whether the mandatory mediation ordered by this Court has occurred, it appears that more time is needed for mediation. Caution: If the parties do not schedule and attend mediation before the next status conference, this Court may impose sanctions on the recalcitrant party(ies). Appearances are not required on 2/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Douglas Lawrance DeCoster

Chapter 7

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19.
Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be continued? Should this adversary proceeding be dismissed for lack of prosecution?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Douglas Lawrance DeCoster

Chapter 7

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. Cf. adv. dkt. 7 (belated request for mediation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l*

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11:00 AM

CONT... **Douglas Lawrance DeCoster**

Chapter 7

Network, Ltd. v. Sharif, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By
Charles J Brash

Plaintiff(s):

Sharon Graner

Represented By
Stephen B Goldberg

Kieran Graner

Represented By
Stephen B Goldberg

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, June 4, 2019

Hearing Room 1545

11:00 AM

2:16-24010 Ricky Grayson

Chapter 7

Adv#: 2:18-01030 Construction Laborers Trust Funds for So Calif v. GRAYSON

#6.00 Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt and for Specific Performance Compelling an Audit
fr. 4/10/18, 4/17/18, 5/22/18, 6/12/18, 10/16/18, 03/05/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances are not required on 6/4/19.

The tentative ruling is (1) to direct Plaintiff to lodge a proposed order dismissing this adversary proceeding without prejudice, for the reasons stated in the Plaintiff's status report (adv. dkt. 21), and (2) to continue this status conference to 8/6/19 at 11:00 a.m. (so that, if Plaintiff does not lodge the proposed order for some reason, this matter will not "slip through the cracks").

Proposed order: Plaintiff is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Although this Court questions whether there is any point in keeping a nondischargeability action pending when the debtor is deceased, the tentative ruling is to continue this status conference to 6/4/19 at 11:00 a.m. based on the request in the Status Report (dkt. 20). Appearances are not required on 3/5/19.

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CONT... Ricky Grayson

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues.

Current Issues:

(1) District Court Litigation: On 6/12/18 this Court granted relief from the automatic stay (main case dkt. 123) to proceed with related litigation before the District Court. The parties should be prepared to address the status of the District Court litigation, and any other matters bearing on resolution of this matter.

(2) Joint Status Report: Per this Court's adopted tentative ruling for 6/12/18 (reproduced below), the parties were required to submit a joint status report on 10/2/18. No such report was filed. The parties should be prepared to address why the joint status report was not filed as ordered.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Continue status conference to 10/16/18 at 11:00 a.m. for the reasons stated below. Appearances are not required on 6/12/18.

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11:00 AM

CONT... Ricky Grayson

Chapter 7

Current Issues.

(1) Motion to Dismiss (adv. dkt.7). At the hearing on 4/17/18, this Court was persuaded to defer ruling on the motion to dismiss in view of the possibility that the issues would be litigated before the district court. On 5/9/18 plaintiff filed a motion for relief from stay to proceed with the district court litigation (2:16-bk-24010-NB, dkt. 117) (the "R/S Motion") and scheduled a hearing for this date on the 10:00 a.m. calendar. This court's tentative ruling for the R/S Motion is to grant that motion. Therefore, the tentative ruling for this matter is to take the motion to dismiss off calendar without prejudice to resetting it or filing appropriate papers after the district court litigation has been resolved.

(2) Deadlines: In view of this Court's tentative ruling on the R/S Motion, the tentative ruling is to continue this status conference to the date and time stated at the start of this tentative ruling. The parties are directed to file a joint status report by 10/2/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/22/18:

Continue to 6/12/18 at 11:00 a.m. for the reasons stated in the status report (adv. dkt. 16). Appearances are not required on 5/22/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Ricky Grayson

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Tentative Ruling for 4/17/18:

Appearances required. The court has reviewed the debtor's motion to dismiss (dkt. 7), Plaintiff's opposition (dkt. 14), the parties' joint status report (dkt. 9), Notice of Related District Court Case (dkt. 12) and the other filed documents and records in this adversary proceeding.

Paragraph "(2)" below is the tentative ruling on the motion to dismiss. Paragraphs "(1)," "(3)," and "(4)" below are Judge Bason's standard requirements for status conferences, with additional provisions specific to this matter. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

With respect to this specific matter, although nondischargeability complaints are prototypically "core" bankruptcy matters, this Bankruptcy Court is concerned about possible duplication of litigation and infringement on the District Court's management of the related nonbankruptcy action pending in that Court since 6/16/17. Should this Bankruptcy Court grant relief from the automatic stay (on this Court's own motion or the motion of either party) so that such litigation can proceed, and meanwhile hold this nondischargeability action in abeyance? Alternatively, are other approaches preferable, such as

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removal, or withdrawal of the reference, or bifurcation of issues? The parties are directed to address what is the most appropriate and efficient way to proceed.

(2) Motion to Dismiss (dkt. 7)

The legal standards applicable to a motion to dismiss will not be repeated here because they are well known and have been summarized in the parties' filed papers. The tentative ruling is to grant the motion to dismiss the first and second claims for relief, with leave to amend, for the following reasons.

(a) 11 U.S.C. 523(a)(2)(A): false representation etc.

The debtor/defendant seeks dismissal of the first claim for relief, under section 523(a)(2)(A), on the ground that the plaintiff has not alleged that he obtained money, property, services, or credit from plaintiff as a result of the alleged fraud. The debtor/defendant argues (adv. dkt. 7, pp.6:23-7:3) that any alleged misrepresentations occurred in reports filed after the employees had performed services for the prior month and therefore after the debt was incurred, so the money or property at issue was not "obtained by" the alleged fraud.

On the one hand, the motion to dismiss is not entirely persuasive on this point. Reading the complaint in the light most favorable to the plaintiff as this Court must do when addressing a motion to dismiss, the complaint (adv. dkt. 1, p.1, para. 25) alleges that as a result of an ongoing pattern of false reports the Trust Funds (whom the plaintiff represents) missed opportunities to assert claims against the debtor/defendant's general contractors, which allegedly would have resulted in recovery of funds to cover the dollar amounts owed to the Trust Funds. In other words, if the Trust Funds had known of the (allegedly) false representations in those reports (or the allegedly fraudulent nature or false pretenses in those reports) then, allegedly, the Trust Funds could have pursued remedies that apparently are no longer available to them, so the fact that the reports were filed after the services were rendered each month is not dispositive.

But the complaint does not explain how the Trust Funds' missed opportunity amounts to obtaining money, property, services, or credit from plaintiff as a result of the alleged fraud. Rather, it appears that the (allegedly) false reports enabled the debtor/defendant to continue obtaining services from the employees (without providing those employees all of the

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compensation to which they were owed, in the form of funds that should have been transferred to the Trust Funds for the benefit of the employees).

Compare In re Kay, 60 B.R. 174, 176 (Bankr. C.D. Cal. 1986) (liability based on fact that "the employee beneficiaries" sustained damages as "the proximate result of the defendants' representations") (emphasis added).

In sum, there are not enough allegations in the complaint to show a causal connection between the alleged falsehoods of the debtor/defendant and some sort of damage to the plaintiff. It is possible, of course, that the plaintiff stands in the shoes of the employees for these purposes, but the complaint does not include sufficient allegations (or copies of documents) for this Court to read the complaint that way. It is also possible that the plaintiff itself has been damaged - *e.g.*, perhaps the plaintiff is liable to the employees if it did not detect and cure the alleged falsehoods in the debtor/defendant's reports, and thus the plaintiff itself has been damaged - but again the complaint does not include sufficient allegations (or copies of documents) for this Court to read the complaint that way.

For all of these reasons, the tentative ruling is to grant the motion to dismiss the first claim for relief, with leave to amend. **The tentative deadline for filing an amended complaint is 5/1/18.**

The debtor/defendant has raised a separate argument with respect to the first claim for relief. The tentative ruling, however, is to reject the debtor/defendant's alternative argument (*adv. dkt. 7, pp.7:23-8:5*) that, under Rule 9(b), Fed. R. Civ. P. (incorporated by Rule 7009, Fed. R. Bankr.P.), the complaint is not sufficiently precise about the amount of hours that were falsely under-reported in each report. The complaint sufficiently apprises the debtor/defendant of the grounds of the alleged fraud, and any greater specificity is a matter for discovery and proof at trial, not a defect in pleading.

(b) 11 U.S.C. 523(a)(4): fraud or defalcation while acting in a fiduciary capacity, etc.

The debtor/defendant seeks dismissal of the second claim for relief, under section 523(4), on the ground that the complaint lacks sufficient allegations that he is a fiduciary with respect to the funds at issue. The tentative ruling is that this is correct.

The complaint alleges that "amounts withheld from employee wages meant to be transmitted to the Vacation Trust" became assets of that trust

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"as of the earliest date on which such contributions ... can reasonably be segregated from the employer's general assets." Complaint (adv. dkt. 1), p. 8, para.30 (emphasis added, quoting 29 C.F.R. 2510.3-102). In response the debtor/defendant argues (adv. dkt. 7, pp.9:12-15): "Plaintiff has failed to allege that such withholdings actually occurred and when such employee wage withholdings could be 'reasonably segregated from the employer's general assets.' Without such allegations, Plaintiff has failed to adequately allege that plan assets are at issue." (Emphasis added.)

To illustrate, consider the following hypothetical situation. Suppose that the debtor/defendant was paid \$10X by a customer, but had obligations at that time of \$15X consisting of \$5X owed to employees for their base pay, \$1X that should have been transmitted to the Vacation Trust but was not, and \$9X for various other business expenses such as rent and income taxes. Did the \$1X ever become segregated (withheld from wages) to the extent that it became a separate fund as to which the debtor/defendant had fiduciary obligations, or was the \$1X only one contractual debt among many, with no segregated fund and therefore no associated fiduciary obligations?

In a similar vein the debtor/defendant also argues (adv. dkt. 7, pp.9:16-10:17) that the allegations about purported control over plan assets are conclusory, that unpaid contributions to employee benefit funds are not plan assets, and that there are insufficient allegations in the complaint to establish that there was any pre-existing fiduciary relationship. The tentative ruling is that all of these arguments are persuasive.

The debtor/defendant cites persuasive authority in support of the foregoing analysis. It is one thing if an employer misuses employee contributions to a trust fund, but if the funds have never reached the employee and instead are contributions that the employer was supposed to make then the failure to pay that contribution is not, by itself, enough to establish a fiduciary relationship with respect to those funds. See *In re Quinones*, 537 B.R. 942, 945 n.2 (Bankr. N.D. Cal. 2015) (distinguishing employer contributions "from the situation where an employer has control over funds that were withheld from employees' paychecks"). The complaint does not include sufficient allegations to determine which type of contribution is at issue.

In sum, the complaint does not contain enough allegations about the precise relationships among the parties so as to be able to figure out when the debtor/defendant's duties arose and to whom. The tentative ruling is to

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set the same deadline to amend the complaint as for the first claim for relief.

Unless this Court is persuaded to depart from the foregoing tentative ruling it will be adopted as this Court's final ruling on the motion to dismiss. The debtor/defendant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(3) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge) at this time? The tentative ruling is to set a deadline of **5/1/18** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(4) Deadlines: This adversary proceeding has been pending since 2/5/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 6/5/18

Continued status conference: 6/19/18 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Continue to 4/17/18 at 11:00 a.m. to be heard concurrently with defendant's motion to dismiss. Appearances are not required on 4/10/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricky Grayson

Represented By
Yelena Gurevich

Defendant(s):

RICKY TYRONE GRAYSON

Represented By
Ryan A. Stubbe

Plaintiff(s):

Construction Laborers Trust Funds

Represented By
Marsha M Hamasaki
Jeffrey D Sackman

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel
Sonia Singh

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2:18-21849 Ronald Serrano Yuson

Chapter 7

Adv#: 2:19-01031 Yoo v. Dungca et al

#7.00 Cont'd Status Conference re: Complaint for Recovery
of Money / Property
fr. 04/02/19

Docket 1

*** VACATED *** REASON: Dismissed pursuant to Rule 41(a)(1) filed on
5/6/19 [dkt. 6]

Tentative Ruling:

Party Information

Debtor(s):

Ronald Serrano Yuson

Represented By
Marvin Jarrett Mann

Defendant(s):

Rommel Dungca

Pro Se

Arlene Dungca

Pro Se

DOES 1-10

Pro Se

Plaintiff(s):

Timothy J. Yoo

Represented By
Leonard Pena

Trustee(s):

Timothy Yoo (TR)

Represented By
Leonard Pena

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2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

- #8.00** Cont'd Status Conference re: Complaint for Non-Dischargeability of Debtor Pursuant to 11 U.S.C. Section 523(a)(4) and 11 U.S.C. Section 523(a)(6) fr. 7/19/16, 12/13/16, 05/02/17, 09/12/17, 2/27/18, 6/12/18, 10/9/18, 12/18/18, 1/29/19, 2/26/19, 5/7/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This adversary proceeding has been pending since 1/4/16. At the hearing on 5/7/19, the parties informed this Court that the judgment at issue had been affirmed on appeal. Additionally, Defendant/Debtor had obtained new counsel (adv. dkt. 31) who requested additional time to review this matter. The parties should be prepared to address whether the nonbankruptcy judgment is preclusive on some or all issues in this adversary proceeding. If so, is there anything left to do but issue a judgment determining that the nonbankruptcy judgment is nondischargeable? On the other hand, if Defendant/Debtor asserts that preclusion is not sufficient to establish nondischargeability, what deadlines and other procedures should this Court adopt to move this matter forward (e.g., a deadline for any additional discovery and any dispositive motions, and a concurrent deadline to lodge an order for mandatory mediation)?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19 (same as for 2/26/19):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the status of the appeal in the civil matter.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 per the Plaintiff's filed status report (dkt. 28).

Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

The plaintiff mis-filed the status report in the main case (main case dkt. 42) instead of this adversary proceeding. The plaintiff also failed to lodge a proposed order continuing this matter (using this Court's "LOU" program), and instead attached it to the status report.

Notwithstanding these errors, the tentative ruling is to continue this Status Conference to 12/18/18 at 11:00 a.m. Plaintiff is directed to file the

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next status report in this adversary proceeding (not in the main case) no later than 12/4/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This matter has been continued multiple times (see tentative rulings reproduced below, and see Order, adv. dkt. 18). At the 2/27/18 hearing, this court further continued the hearing to today's date and directed plaintiff to give written notice. No such notice appears to have been filed on the docket. Why not?

There is no tentative ruling, but the parties should be prepared to address the issues described in the tentative ruling for 2/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Appearances required. At the hearing on 5/2/17 this court was persuaded to continue this matter to 9/12/17. This matter was further continued to today's date (see Order, adv. dkt. 18).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably

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will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/2/17:

Appearances required. At the hearing on 12/13/16 this court was persuaded to continue this matter to today's date, with a deadline of 4/11/17 to complete mediation (see adv. dkt. 13 (mediation order)).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/13/16:

Continue to 2/7/17 at 11:00 a.m. at which time this court anticipates addressing, in view of the State Court's determinations as to pending matters, what trial date and other deadlines to set. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative

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rulings".

Chapter 7

Tentative Ruling for 7/19/16:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

(1) Failure to file a status report. Why did the plaintiff not file a status report updating the Court as to the status of the pending state court litigation (adv. dkt. 4)? Should this Court issue an order to show cause based on plaintiff's disregard of this Court's order?

(2) Status of the state court litigation. What is the status of the state court litigation?

(3) Continued status conference. Assuming that the state court litigation is still pending, this Court intends to set a continued status conference for 11/8/16 at 11:00 a.m. The plaintiff must file a brief status report detailing the current status of the state court litigation by 10/25/16.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
James R Selth

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Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian

Valerie Fykes

Represented By
Michael D Anderson

Forrest Fykes JR

Represented By
Michael D Anderson

Melissa Fykes

Represented By
Michael D Anderson

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#9.00 Hrg re: Plaintiff's Motion for Summary Judgment and for Entry of a Separate Judgment

Docket 53

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See # 3 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

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Movant(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:18-15829 Philip James Layfield

Chapter 7

#10.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19; 04/02/19;
04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 10 (4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 6 (4/2/19 at 2:00 p.m.).

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/18/18:

Please see tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (12/18/18 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield &*

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Barrett case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the Layfield & Barrett matter (calendar no. 1, 9/18/18 at 2:00 p.m.).

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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Tuesday, June 4, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#11.00 [Notice of Dismissal of Deft., Wesley H. Avery, Tr.]

Status Conference re: Complaint Against Dischargeability
1) Declaratory Relief and 2) Fraudulent Transfer / Concealment
fr. 5/21/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard on
07/30/19 at 11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT...

Philip James Layfield

Ryan W Beall

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19;04/02/19;
04/30/19

Docket 323

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol").

(b) Pachulski v. Young, et al (Adv. No. 18-01223) (11 U.S.C. 547)

Based on the Joint Status Report (adv. dkt. 28), this Court finds it appropriate to abate any current deadlines in anticipation of cross-motions for summary judgment. This adversary proceeding will be set for a new status conference on 9/10/19 at 11:00 a.m. with no written status report required.

(c) Affeld Grivakes LLP v. Pachulski (Adv. No 19-1028) (Jewel/Heller issues)

At a prior hearing, the parties discussed the possibility of mediation, but wanted time for discovery, as well as time to address the issues with Mr. Alvarez. The tentative ruling is to set a deadline of 6/18/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

The tentative ruling is also to continue the status conference in this adversary proceeding to the same time as the continued status conferences

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CONT... Layfield & Barrett, APC
in the main cases (see below).

Chapter 11

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 7/30/19 at 11:00 a.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 4/30/19:

Appearances are not required.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol").

(b) Evidentiary Objections (Lay-Invol dkt. 214) to the Declaration of Philip Layfield (Lay-Invol dkt. 207, last two pages)

Sustain the objections except as to Mr. Layfield's alleged intent to appear at certain scheduled meetings of creditors (11 U.S.C. 341(a)). On that issue, his testimony is at least potentially relevant, because his good or bad faith is one of the facts and circumstances that this Court may consider in determining whether to dismiss this case.

Alternatively, the tentative ruling on the merits (see below) would be unchanged even if this Court were to overrule all of the evidentiary objections to Mr. Layfield's declaration.

(b) Motion to Dismiss (Lay-Invol dkt. 207)

Deny for the reasons stated in the Chapter 7 Trustee's Opposition (dkt. 213). See also Joinders (dkt. 215, 216).

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CONT... **Layfield & Barrett, APC**

Chapter 11

In addition, regarding Mr. Layfield's allegations about some sort of perceived conflict involving the Chapter 7 Trustee, his arguments are difficult to follow and both procedurally and substantively deficient. This Court has already rejected Mr. Layfield's challenges to the appointment of the Trustee. See dkt. 149, 183. To the extent that Mr. Layfield raises new allegations, there is no explanation why they were not raised before; there is no citation to the standards for reconsideration (e.g., under Rule 9024, Fed.R.Bankr.P.) nor any attempt to meet those standards; and his vague allegations are conclusory statements of opinion and legal conclusions without supporting facts. See dkt. 207, p.4:11-18 & pp. 11:21-12:5 (referencing *In re Adelman*, Case No. 2:15-bk-15952-RK). In addition, this Court has reviewed the docket in the *Adelman* bankruptcy case, including the bankruptcy schedules (*id.* dkt.84), and is unable to discern any disqualifying facts. See 11 U.S.C. 327(c)(attorney's representation of creditor does not by itself disqualify such person from representing trustee).

Proposed Order: Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(3) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 6/4/19 at 11:00 a.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 4/2/19:
Appearances required

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CONT... Layfield & Barrett, APC

Chapter 11

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154).)

(2) Matters on Calendar Today

(a) Motion for Sale of Property (dkt. 419)

The tentative ruling is to grant the Motion to Sell Units 210 and 220. If the buyer submits a suitable 363(m) declaration, the Court will approve the buyer as a good-faith purchaser.

Proposed Order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Wells Fargo Relief from Stay Motion (dkt. 143)

Based on the above, the tentative ruling is to continue the Relief from Stay Motion to the next status conference date, see below, until the sale is finalized.

(3) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 4/30/19 at 11:00 a.m. to be concurrent with Mr. Layfield's motion to dismiss that case (Lay-Invol. dkt. 207). No written status report required.

*Warning: special procedures apply (see order setting initial status

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CONT... Layfield & Barrett, APC
conference).

Chapter 11

Tentative Ruling for 3/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(2) Matters on Calendar Today

(a) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address whether there has been any new information regarding the sale of Units 210 & 220. If there is no progress with a sale, this Court's tentative ruling would be to grant relief from stay as to Units 210 & 220 due to the diminishing equity cushion (dkt. 143). As Unit 200 has been successfully sold, dkt. 144 is moot.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/26//19 at 2:00 p.m. to be concurrent with status conferences in the Lay-Invol case and in an adversary proceeding in the L&B case (Adv. No. 19-1315). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 2/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

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CONT... **Layfield & Barrett, APC**

Chapter 11

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(b) Lay-Invol 341(a) Meeting

The parties should be prepared to address appropriate remedies for Mr. Layfield's failure to appear at the meeting of creditors (11 U.S.C. 341(a)) scheduled for 1/22/19.

(c) Christine Layfield Delaware bankruptcy case

The parties should be prepared to address any effects of the chapter 7 bankruptcy case filed by Mr. Layfield's spouse, as reported by the L&B Chapter 11 Trustee (L&B dkt. 401, p.7). To what extent does the trustee of that bankruptcy estate assert interests in these related cases? Are there discussions regarding any stipulations for relief from the automatic stay, coordination regarding venue of any proceedings, and/or coordinating other matters as between the estates?

(2) Matters on Calendar Today

(a) Motion to Sell 2720 Homestead Rd, Unit 200, Park City Utah (L&B dkt. 391)

The parties should be prepared to address the issues raised by Wells Fargo (L&B dkt. 396) and Toll Creek Owners Association, Inc. (L&B dkt. 397), as well as Movant's reply (L&B dkt. 402). In addition, if the objections are resolved or overruled and the sale goes forward (subject to overbids), the tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers,

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CONT...

Layfield & Barrett, APC

Chapter 11

directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. See *generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

(b) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address the issues raised in Wells Fargo's status report (L&B dkt. 399) regarding all of the condominium units. The tentative ruling is to continue the Relief from Stay Motions to 3/5/19 at 2:00 p.m., with a deadline of 2/12/19 for the Trustee to provide Wells Fargo an updated written report describing the listing price(s), showings, and offers for Units 210 and 220. The tentative ruling is also to extend the previously entered orders for filing under seal (L&B dkt. 387, 388) to any brief the parties wish to file in connection with the continued hearing.

(c) Wellgen Standard v. Maximum Legal (17-1503) Status Conference

The parties should be prepared to address the status of the purported settlement of this adversary proceeding.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 12/18/18:
Appearances required

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11:00 AM

CONT... Layfield & Barrett, APC

Chapter 11

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of the three related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."), (c) *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA").

(2) Matters on Calendar Today

(a) Chapter 7 Trustee's Motion for Order (1) Approving Stipulation Relating to Disbursement of Funds, and (2) Closing Case (Max-CA, dkt. 137)

The tentative ruling is to grant this motion, but the parties should be prepared to address the effect on the pending adversary proceeding entitled *Wellgen Standard LLC v. Maximum Legal (California), LLP et al.* (L&B Case, No. 2:17-bk-19548-NB; Adv. No. 2:17-ap-01503-NB) (the "Wellgen Adv.P.").

On a related matter, as part of case management in the L&B case, the tentative ruling is to continue the Status Conference currently set in the Wellgen Adv.P. from 1/15/19 at 11:00 a.m. to the same date and time as the Status Conferences in the related bankruptcy cases, set forth below.

(b) Final Fee Application of SulmeyerKupetz (Max-CA, dkt. 131)

Grant: \$12,693.52 in fees and \$52.48 expenses.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 2/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), with a *brief* status report by the trustees due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Rulings for 12/6/18 and prior:

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CONT... Layfield & Barrett, APC

Chapter 11

**[OMITTED FOR BREVITY, AND BECAUSE THEY HAVE BEEN LARGELY
MEMORIALIZED. See, e.g., L&B dkt. 367, 377]**

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
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11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:18-01233 Pachulski v. Young et al

#13.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers fr. 11/27/18, 4/30/19

Docket 10

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see tentative ruling in status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.)

Tentative Ruling for 11/27/18:

Appearances required. The court has reviewed the parties' joint status report (dkt. 19) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final

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CONT... Layfield & Barrett, APC

Chapter 11

judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 12/11/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 7/23/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 3/30/19.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 3/19/19.

Continued status conference: 4/2/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Layfield & Barrett, APC

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Jeffery Young

Represented By
Gary R Wallace

Conal Doyle

Represented By
M. Jonathan Hayes

Wilshire Law Firm, PLC

Represented By
M. Jonathan Hayes

Babak Bobby Saadian

Represented By
M. Jonathan Hayes

Neifert Khorshid

Represented By
M. Jonathan Hayes

Plaintiff(s):

Richard M Pachulski

Represented By
James KT Hunter

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:19-01028 Affeld Grivakes LLP v. Pachulski

#14.00 Cont'd Status Conference re: Complaint for 1) Declaratory Relief; 2) Enforcement of Lien fr. 04/02/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 4) and the other filed documents and records in this adversary proceeding.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is

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CONT... Layfield & Barrett, APC

Chapter 11

intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 4/16/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 1/29/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 7/9/19, subject to adjustment at next status conference depending on Alvarez issues (see Status Report, adv. dkt. 4, section G).

Expert(s) - deadline for reports: 7/23/19 (subject to same adjustment)

Expert(s) - discovery cutoff (if different from above): 8/6/19 (subject to same adjustment)

Dispositive motions to be heard no later than: TBD

Joint Status Report: 5/21/19.

Continued status conference: 6/4/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

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CONT... Layfield & Barrett, APC

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Richard M Pachulski

Represented By
James KT Hunter

Plaintiff(s):

Affeld Grivakes LLP

Represented By
Damion Robinson

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
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11:00 AM

2:19-11217 Lidia Paez Barrera

Chapter 7

#15.00 Order to Show Cause Re: Why Daniel King Esq. Has Not
Prosecuted This Case After (Alleged) Death of Debtor
Pursuant to Rule 1016

Docket 14

Tentative Ruling:

Discharge the order to show cause ("OSC," dkt. 14) based on the responses and recent activity on the docket. Appearances are not required, and this Court will prepared the order discharging the OSC.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lidia Paez Barrera

Represented By
Daniel King

Trustee(s):

Carolyn A Dye (TR)

Pro Se

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1:00 PM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Proof of Insurance for Motor Vehicles

Debtor should be prepared to address the status of her proof of insurance for two motor vehicles. See dkt. 52.

(b) Motion of Karl S. Reinecker, An Accountancy Corporation, for Relief from Stay (the "R/S Motion," dkt. 56)

The tentative ruling is to grant the R/S Motion in part, and deny it in part, as follows.

(i) Termination

Modify the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2) such that Movant may proceed with all foreclosure steps, except no foreclosure sale prior to 9/26/19. As a preliminary matter, this Court notes that proceedings on motions for relief from the automatic stay are summary in nature, and this Court is not required to conduct a "mini trial" on any disputed evidentiary issues. See, e.g., *In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011). On the record presented, this Court's analysis is as follows.

As for insurance, the tentative ruling is that Debtor is persuasive in asserting that the principal value is in the real property, as distinguished from the improvements, and that there is no showing that a \$1.5 million policy is insufficient for the latter. On the other hand, as for Debtor's assertion of a TILA violation or other lender liability/defenses, the tentative ruling is that this is insufficient for the reasons stated in Movant's reply (dkt. 66). That leaves what appears to be the key issues: valuation of the property, and the prospects for a quick sale (Debtor admits that she lacks the income for any

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Chapter 11

other type of financial reorganization).

Both parties have weak evidence of value (as addressed further below). But on the record presented the tentative ruling is that Movant has presented sufficient evidence to show on a *prima facie* basis that its lien more likely than not is underwater and subject to erosion by an increasing senior lien debt (section 362(d)(1)), and therefore is not adequately protected, and alternatively that Debtor lacks an equity in the property and the property is not necessary for an effective reorganization, meaning a financial reorganization (*i.e.*, in this case, a sale of the property) that has a "reasonable" possibility of being successfully accomplished "within a reasonable time." *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assoc's, Ltd.*, 484 U.S. 365, 375-76 (1988). These issues are addressed further below.

(ii) Section 362(d)(1) and valuation

Movant has presented evidence that the property value is approximately \$2,750,000. True, Debtor points out a weakness in Movant's evidence of value: if Movant's evidence is to be believed then the present value leaves its lien far underwater, but there is no evidence of a drastic decline in real estate values or drastic increase in the senior debt after the loan was made in 2016, which suggests that either Movant made a loan in 2016 on very inadequate collateral or else that Movant's current valuation is substantially too low. In addition, this Court notes that Movant's appraisal is an "exterior only" appraisal. See dkt. 56, Ex.4.

But even if Movant's evidence is flawed, the tentative ruling is that it is enough to meet Movant's burden of producing some evidence of "cause" for relief from the automatic stay because it is more likely than not that Movant's lien is being eroded by accruing interest and other charges on unpaid senior liens. The undisputed evidence is that the asserted liens against the property amount to over \$3.9 million so, even if Movant's evidence of value is wildly inaccurate, Movant has presented enough evidence to meet its initial burden to show that lacks a sufficient equity cushion (normally a 10% to 20% equity cushion is required for that cushion to constitute adequate protection).

Debtor has attempted to rebut Movant's evidence by presenting her own evidence of a \$4.8 million value. But, as Movant points out, Debtor's appraisal (dkt. 65) is as of April 20, 2018, 11 months prior to the bankruptcy petition and over a year before the present date, and it relies on comparable sales from 2017 and 2014. In addition, this Court notes that the adjustments to "comps" (allegedly comparable properties) are generally so large that they

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Chapter 11

call into question the accuracy of Debtor's appraisal. See dkt. 65, Ex.4.B., at PDF pp.8-10.

In other words, the tentative ruling is that Debtor's evidence does not provide sufficient assurance of an equity cushion to overcome Movant's *prima facie* evidence of cause for relief from stay due to erosion of its interest because of non-payment of the senior lien. Nevertheless, given the weaknesses in Movant's evidence, and given that the apparent erosion of Movant's interest is somewhat gradual relative to the size of the debt at issue, the tentative ruling is that an appropriate form of relief from the automatic stay is to provide Debtor with the period of time set forth at the start of this tentative ruling before any foreclosure can take place. To be clear: Movant will be able to take all steps in preparation for foreclosure prior to that time, but could not actually conduct a foreclosure sale until that date.

(iii) Section 362(d)(2)

The tentative ruling is that Movant has established that Debtor lacks an equity in the property for the same reasons set forth above. As to whether the property is necessary to "effective" reorganization, the evidence is that the property has been on the market for over a year and has not sold. Although Debtor has substantially reduced the asking price, she has not provided evidence of an impending sale or any interested buyers. The tentative ruling is that if a sale is not accomplished within the period set forth at the start of this tentative ruling that would not be "within a reasonable time" as required by *Timbers*.

Note: The tentative ruling is to overrule Movant's evidentiary objection (dkt. 67) because it goes to the weight of the evidence and not the admissibility. Also, to the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(ii) Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because Movant has not provided sufficient evidence of bad faith or a

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Chapter 11

scheme to delay, hinder, or defraud creditors comparable to what Congress has set forth in section 362(d)(4) that would justify awarding the requested *in rem* relief.

(iii) Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

(iv) Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 3/13/19 .

(a) Bar date: 6/30/19 (dkt. 45) (served 5/2/19).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/30/19 at 1:00 p.m. Status Report due on 7/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

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Chapter 11

(a) Budget motion

Debtor's status report (dkt. 31, item B.2.) states that a budget motion is not required by the presiding judge. To the contrary, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state:

§ 363(b): Budget motions. Required. ... **NOTE:** Judge Bason *requires* the use of local forms F 2081-2.2.MOTION.BUDGET and F 2081-2.2.ORDER.BUDGET.

Nevertheless, the tentative ruling is to excuse the lack of a budget motion due to the circumstances of this case (Debtor proposes a 363 sale of her sole property that allegedly has substantial equity; she has almost no income; and she has almost no unsecured creditors).

(b) Transfers to insiders

Debtor's first Monthly Operating Report ("MOR," dkt. 30, p.8, question 2) states that transfers have been made to insiders without appropriate authorization. What are the details?

(c) 363 sale

Debtor's counsel is referred to the posted Procedures of Judge Bason regarding sales under 11 U.S.C. 363(b)&(f).

(2) Deadlines/dates. This case was filed on 3/13/19 .

(a) Bar date: 6/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/4/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Andrea Pompelli Steyn

Chapter 11

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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2:19-12720 Andrea Pompelli Steyn

Chapter 11

#2.00 Hrg re: Motion for relief from stay [RP]

KARL S. REINECKER, AN ACCOUNTANCY CORP.
vs
DEBTOR

Docket 56

Tentative Ruling:

Please see tentative ruling in status conference, calendar no. 2 (6/4/19 at 1:00 p.m.).

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19;
04/30/19

Docket 7

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances are not required on 6/4/19.

(1) Current issues

The Court has no issues to raise *sua sponte*.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/6/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances are not required on 4/30/19.

(1) Current issues

(a) Fee Application - Berger (dkt. 75)

Grant in the amount of \$24,777.50 in fees and \$680.61 in expenses,

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CONT... **Edmond Melamed and Rozita Melamed** **Chapter 11**

for a total of \$25,458.11, and authorize and direct Debtors to pay the balance owed after application of the retainer balance.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

This status conference has been set pursuant to this Court's order (dkt. 6) and notice thereof (dkt. 14), pursuant to which status conferences are held concurrent with any other calendared proceeding. Appearances are not required on 4/9/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Grant, with an extension of the deadline for Mazakoda Inc to file a complaint objecting to dischargeability to 4/30/19. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). At the hearing on 3/26/19, counsel for Mazakoda appeared and informed this Court that it opposed the tentative ruling denying the motion for lack of prosecution, and that it had just received

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CONT... Edmond Melamed and Rozita Melamed

Chapter 11

the recording/transcript on 3/22/19. Although Debtors' counsel was not notified of Mazakoda's intent to contest the tentative ruling (as required by the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov), this Court was persuaded to continue this matter, as permissible under those same procedures. Mazakoda has now supplemented the Motion (dkt. 74), and based on that supplement the tentative ruling is that it is appropriate to extend the deadline.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Deny for lack of prosecution. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). It has now had time to do so, and has not supplemented its motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling

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for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Continue as set forth below. Appearances are not required on 2/26/19.

(1) Current issues

Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Until the transcript is received for the meeting of creditors (11 U.S.C. 341(a)), it is difficult to assess the issues raised in the opposition (dkt. 63) and reply (dkt. 64). The tentative ruling is to continue this hearing to the same time as the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:
Appearances required.

(1) Current issues

(a) Mazakoda, Inc's Objections to Debtor's Claimed Exemptions (dkt. 45)

The tentative ruling is to set the Objection to Exemptions for hearing on 2/26/19 at 1:00 p.m. (to be concurrent with the motion to extend the deadline to object to Debtors' discharge) with the usual deadlines for any opposition and reply.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:
Appearances required by counsel for the debtor and by the debtor(s)

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CONT... Edmond Melamed and Rozita Melamed
themselves

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(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 2/1/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:18-16732 Motiv8 Investments, LLC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/10/18, 9/18/18, 10/2/18, 11/27/18, 02/05/19,
2/26/19, 03/05/19; 04/02/19, 5/7/19, 05/21/19

Docket 8

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances are not required.

(1) Current issues

The tentative ruling is to dismiss this case with a 108 day bar against being a debtor in bankruptcy, for willful failure to appear in proper prosecution of this case. 11 U.S.C. 109(g)(1).

Proposed order: The United States Trustee ("UST") is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(a) Background

This Court has issued orders terminating the automatic stay as against Crescent Capital Holdings, LLC (dkt. 146), to permit it to foreclose on the Las Flores property, and as against WRCOF Asset Trust 2017-2 (dkt. 149), to permit it to foreclose on the Cahuenga property, provided that neither creditor could conduct a foreclosure sale prior to 6/30/19 unless the stay is otherwise terminated prior to that time, e.g., by dismissal of this case. This Court also was not persuaded that there was any point in Debtor's recent motions to value property, other than delay (see dkt. 161, denying motion re Cahuenga property), and this Court has had other concerns about the lack of prosecution of this case (see below).

This Court was only persuaded not to dismiss this case at the hearing on 5/7/19 for two reasons. First, Debtor's principal allegedly was prepared to contribute funds to make adequate protection payments; but as set forth below that apparently has not happened. Second, this Court wished to provide any other parties in interest who are monitoring the docket an

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Chapter 11

opportunity to address whether some other form of relief would be more appropriate.

Note: Regarding the second reason for a continuance, this Court's standard order at the commencement of this case (dkt. 6, 8), which was served on all parties on the creditor matrix (dkt. 13), provides that this Court may dismiss the case at any Status Conference, so any additional notice probably was not required. Nevertheless, this Court issued a written order continuing this status conference (the "Continuance Order," dkt. 150), which reiterated that this case might be dismissed, and a bar might be imposed. Therefore any party monitoring the docket has had additional notice of the possible dismissal and possible 180 day bar. To provide even more notice, this Court directed the UST to serve a copy of the Continuance Order on all parties in interest (dkt. 150). The docket does not reflect any proof of such service, but the tentative ruling is that there has already been enough notice.

(b) April MOR (dkt. 154)

The March MOR appears to reflect that Debtor's principal has not, in fact, contributed whatever funds are needed for Debtor to make adequate protection payments and other necessary expenditures. Debtor reports that it has not paid various secured creditors. Dkt. 154 at PDF p. 14. Debtor also reports being behind \$650 on UST quarterly fees. *Id.* at PDF p.15.

(c) Dismissal with a bar

This Court has previously expressed concerns about the feasibility of this case. Debtor has responded that its principal can fund the case, but as set forth above that does not appear to have happened, and meanwhile the docket appears to reflect nothing but lack of prosecution and delay.

This Court has expressed other concerns about Debtor's lack of prosecution of this case (see prior tentative rulings reproduced below, including 5/7/19 regarding failure to prosecute any claim objections, and earlier tentative rulings about lack of progress).

For all of the foregoing reasons, the tentative ruling is to dismiss this case with a 180 day bar under 11 U.S.C. 109(g)(1) for willful failure to appear in proper prosecution of this case.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: TBD, if this tentative ruling is

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contested and this Court is persuaded not to dismiss this case.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Motion to Value Cahuenga Property (dkt. 138)

Deny for the reasons stated in the opposition filed by WRCOF Asset Trust ("WRCOF"). Dkt. 145.

Proposed order: WRCOF is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) General status

Debtor was ordered to file a status report no later than April 30, 2019. As of the preparation of this tentative ruling, no such report has been filed. Should this Court impose sanctions?

Debtor's prior status report (#5, dkt. 128) states that Debtor has no unsecured debt and "will seek refinancing of its assets and/or the sale of properties in order to pay off the entire debt of the Las Flores Property and fund a confirmable Chapter 11 Plan." Dkt. 128, p.2:17-20. This Court previously presumed that Debtor was focused on sales, because refinancings appear to be unrealistic. But now Debtor's principal declares (dkt. 139, p.4, para.4-5) that he is currently in negotiations with potential lenders to refinance two of Debtor's three properties which "will pay" all secured debt against the properties. That appears to be entirely unrealistic.

Debtor has almost no funds: it reports only \$50.01 as of 3/31/19 in its latest Monthly Operating Report ("MOR"). See MOR#10 (dkt. 136), p.1. Apart from that, Debtor has three properties:

(i) Las Flores/Altadena Property. This property is supposed to have been sold for \$850,000. See dkt. 129. That is unlikely to generate any useable proceeds because this \$850,000 is subject to a real estate broker's commission of \$17,000, real estate taxes estimated at over \$18,000, and the claim of Crescent Capital Holdings, LLC ("Crescent") of \$763,832.42 as of the petition date plus alleged postpetition interest for one year at 29.99%. See dkt.110, p.4:10-17, dkt. 129, and POC 3-1. Although interest above the non-default rate will not be presently distributed to Crescent, nor will it be distributed to Debtor (until after resolution of any claim objection, or other order of this Court).

(ii) Cahuenga Park Property. Debtor values this property at \$900,000. Dkt. 30, p.3. Creditor WRCOF Asset Trust 2017-2 ("Cahuenga Trust") asserts a secured claim of \$811,295.30 as of the petition date, plus

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postpetition interest for almost a year at 12%. POC 4-1. After the balance of unpaid real estate taxes (POC 5-1 for over \$65,000), this property is unlikely to have any useable equity.

(iii) Date Property. Debtor values this property at \$800,000 (dkt. 30, p.3). No proof of claim has been filed by the holder of the loan debt secured by this property. Debtor estimated this claim at \$532,000 as of the petition date (dkt.15 at PDF p.9), but given Debtor's wildly inaccurate estimation of other claims (\$627,497.80 against the Cahuenga Park Property, and \$695,831.34 against the Los Flores/Altadena Property) this Court is not persuaded that there is any useable equity in this property.

The bottom line is that any expectation of being able to refinance these properties appears, on the present record, to be unrealistic and a waste of time. Apparently any refinancing would be preconditioned on successful prosecution of claim objections, but nearly a year into this case no claim objections have been filed, let alone successfully prosecuted. See, e.g., dkt. 139, p.2:21-22 (Debtor's admits it has no equity in the Cahuenga Park Property based on the "alleged balance" of the secured claim against that property).

Debtor's only plausible path appears to be to sell the properties; pay the undisputed portion of the secured claims; and, if there are legitimate grounds to do so at this late date, prosecute claim objections.

(b) Crescent's Motion for Relief from Stay (dkt. 78)

Has the sale of the Las Flores/Altadena Property closed? If so, what dollar amount is being held in escrow pending determination of Crescent's claim? What deadline should this Court set to file its objection to Crescent's claim?

(b) Cahuenga Trust's Motion for Relief from Stay (dkt. 134)

What dollar amount of monthly adequate protection payments should be required (see dkt. 134 & the debtor's late-filed response, dkt. 139)? How can Debtor afford to pay that, given the lack of funds reflected in the latest MOR (dkt. 136)? Has Debtor been receiving rents, and are any rents reflected in the MORs?

(c) March MOR (dkt. 136)

This Court is concerned with several items in the March MOR. First, Debtor reports that it did not pay an adequate protection payment of \$5,200 to Triump Capital. Dkt. 136, p.23. Second, Debtor reports being behind \$975 on UST quarterly fees. *Id.* at PDF p.15. Debtor should be prepared to

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address these issues.

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(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m., brief status report due 5/28/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Closing of sale (per Order, dkt. 129)

Debtor's status report (dkt. 128) does not state how soon the approved sale will close. When is it scheduled to close?

(b) Motion for Relief from Stay (dkt. 78)

If there is a satisfactory answer to how soon the sale will close, the tentative ruling is to continue this motion to the same time as the continued status conference to allow time for the sale to be completed and for Debtor to pay approximately \$645,707.28 to Crescent (\$870,885 payoff demand, per dkt. 128, p.3:14, minus amounts to be held aside pending resolution of forthcoming claim objection: approximately \$200,177.72 in default interest and \$25,000 balloon fee).

(c) Forthcoming claim objection

How soon will this be filed?

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(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/7/19 at 1:00 p.m., brief status report due 4/30/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required.

(1) Current issues

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

The parties must inform the Court as to the status of the Mr. Vasquez and the bankruptcy estate having separate real estate brokers (or Mr. Vasquez proceeding without a broker); how any brokers will split the 4% commission; and the other issues laid out by the Court in the tentative ruling for the 2/26/19 hearing. The tentative ruling is that the sale cannot be approved until a broker is authorized to represent the estate in the sale.

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying any attorney fees out of escrow, or paying the real estate brokers until those brokers are actually retained, but overrule those objections to the extent they object to paying costs of sale, including real estate brokers, ahead of Crescent.

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(ii) Payment of the portion of Crescent's claim that is not (yet) disputed, and real estate taxes

The parties should be prepared to address whether a new closing statement has been generated to update the amount to be paid to Crescent and to show that real estate taxes will be paid out of escrow.

(iii) "Good faith" finding

If Mr. Vasquez files a declaration that comports with Judge Bason's procedures before the proposed order approving the sale is lodged, then the tentative ruling is to include a good faith finding in that order.

(iv) Approval of sale

Subject to all the foregoing (including that a broker must be retained before the sale can be approved), the tentative ruling is to approve the sale.

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued status conference to allow time for the sale to be completed.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m., brief status report due 4/23/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues (dkt. 111 etc.)

Debtor's proposed sale of certain real estate is intertwined with

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Debtor's proposed employment of a real estate broker. The tentative ruling is to go forward with the sale hearing, including any overbids, and approve the sale on a provisional basis, with a continued hearing on both the employment application and the sale motion at the same time as the continued status conference (see below).

(a) Application to employ James Gallardo as real estate broker (dkt. 112, 113)

As pointed out by both the United States Trustee ("UST") (dkt. 104) and creditor Crescent Capital Holdings ("Crescent") (dkt.110), Mr. Gallardo is purporting to act as a dual agent, for both the seller (Debtor) and the proposed buyer (subject to overbids), Luis Vasquez. Judge Bason prohibits dual agency, as noted both in his posted Procedures (available at www.cacb.uscourts.gov) and in the order approving the prior real estate broker (dkt. 92) (Mr. Leal).

The tentative ruling is that the lack of dual agency is mandated by the disinterestedness requirements of the Bankruptcy Code and Rules, so it cannot be waived. It is irrelevant that, outside of bankruptcy, it is not uncommon for parties in real estate transactions to accept their agent's lack of disinterestedness. See Reply to Sale Motion (dkt. 115, p.3:10-21).

Accordingly, the tentative ruling is that, if the highest and best bid is that of Mr. Vasquez, then Mr. Vasquez must file a declaration confirming that he has retained his own real estate broker (who must be unaffiliated with Mr. Gallardo), and Mr. Gallardo must represent only Debtor and the bankruptcy estate (not Mr. Vasquez).

In addition, the parties are directed to address whether Mr. Gallardo and/or Debtor's counsel must pay the additional real estate broker out of either (i) a portion of the 4% commission that was to have been paid solely to Mr. Gallardo, or (ii) out of a reduction in Debtor's counsel's attorney fees, so that the bankruptcy estate is not prejudiced by Debtor's non-compliance with the prohibition on dual agency. In other words, should this Court order that the total commission to all real estate brokers combined must not exceed 4%?

In addition, there might be other grounds for objecting to Mr. Gallardo's employment, and the time for objections has not yet expired, so the employment cannot be approved yet. The employment application was served on 2/12/19, which means that objections can be filed until 3/1/19 (14 days plus 3 for service via U.S. mail). Until after that date, parties in interest

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and this Court will not know if, for example, someone were to object to Mr. Gallardo's employment and the proposed sale on the basis that Mr. Gallardo had an undisclosed interest in the sale.

The tentative ruling is that until Mr. Guillardo's employment is approved, the sale must be only provisionally approved. The tentative ruling is that it is appropriate to shorten time (Rule 9006, Fed. R. Bankr. P.) because there is a substantial risk in any bankruptcy sale that if the sale is deferred then prospective purchasers may be unable or unwilling to continue to bid on the property (this Court takes judicial notice that there are considerable costs in holding a proposed sale open, if it is even possible to retain enough funds on hand to close a sale that has been deferred).

For all of the foregoing reasons, the tentative ruling is to set the employment application for hearing at the same time as the continued sale motion and continued status conference (see below).

(b) Debtor's Motion for Authority to Sell Altadena Property (the "Sale Motion," dkt. 102, 105, 114)

(i) Continued hearing

The tentative ruling is to approve the sale (subject to overbids) on a provisional basis, with a continued hearing at the same time as the continued status conference (see below). Between now and that continued hearing, Mr. Vasquez must arrange for a separate real estate broker to represent him (or must proceed without any real estate broker), and must disclaim any reliance on any past representation by Mr. Guillardo and any present representation by him. In addition, the parties can take whatever steps may be appropriate to address the issues set forth below.

(ii) No approval or payment of attorney fees at this time

The tentative ruling is to sustain the objection of the UST (dkt. 104), joined in by Crescent (dkt. 110), that attorney fees must be subject to approval by this Court pursuant to the usual procedures, and that any approval of the proposed sale shall not be deemed to be approval of the attorney fees. The tentative ruling is that the proposed attorney fees must be held by Debtor's counsel in a separate account from which funds cannot be released without further order of this Court (a "Blocked Account"). In addition, the tentative ruling is to defer any ruling on Crescent's objection that it should be paid in full before any attorney fees are allowed (dkt. 110, p.5:24-25), because the timing of any distribution of attorney fees can be addressed in

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connection with allowance or disallowance of those fees.

(iii) Payment of real estate taxes

Crescent objects (dkt. 110, pp.4:24-5:14) that LA County's claim for real estate taxes, estimated to be \$18,456.38, is of a lower priority than Crescent's own claim and therefore should not be paid until Crescent is paid in full. The parties are directed to address (x) whether the real estate taxes are in fact of a lower priority than Crescent's lien, (y) whether any doctrine of marshaling should apply (*i.e.*, whether, even if Crescent's lien is of a higher priority in this property, its claim should be paid from the sale of any other property of the estate so that LA County can be paid out of this sale, or alternatively whether LA County is entitled to a replacement lien on other property so that it is not prejudiced by the fact that this property is being sold prior to other properties), and (z) whether any disputed funds that Debtor proposes to pay either LA County or Crescent must be held in the Blocked Account pending further order of this Court.

In addition, the parties are directed to address how any accruing interest affects the analysis. For example, if funds are held in a Blocked Account pending resolution of the competing claims of LA County and Crescent, will those claims continue to accrue interest at the rate that otherwise would apply (*e.g.*, 18% or 29.99% or some other high rate), or only at the rate that is being paid by the bank at which the Blocked Account is maintained (*e.g.*, 1%)?

The parties also are directed to address what will happen if the funds are distributed to LA County (to stop interest running) but later turn out to be payable to Crescent or the bankruptcy estate. Will LA County be subject to a disgorgement order, consistent with any sovereign immunity analysis?

(iv) Payment of costs of sale, including real estate brokers

The tentative ruling is to sustain the UST's objection (dkt. 104) and Crescent's objection (dkt. 110) to the extent they object to paying the real estate brokers until those brokers are actually retained. But the tentative ruling is to overrule Crescent's objection to the extent it is seeking to bar paying of any costs of sale, including real estate brokers, until it is paid in full, because those costs are properly chargeable out of Crescent's collateral. See dkt. 110, p.4:5-7; 11 U.S.C. 506(c).

(v) Payment of the portion of Crescent's claim that is not (yet) disputed

Crescent objects that Debtor has had considerable time in which to file

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any objection to its claim, but has yet to do so, and that the only portion of its claim as to which an objection has been outlined is the default interest. The tentative ruling is that this objection is well taken: not until 2/13/19 did Debtor assert that it would object to Crescent's claim on the additional ground of not fully funding the construction loan. See dkt. 114, p.4, para.7; dkt. 115, p.4:24-26. The tentative ruling is that this last minute suggestion of a possible type of claim objection is insufficient to support Debtor's proposal to withhold all distributions from Crescent.

In other words, the tentative ruling is that Debtor must pay all principal and non-default interest through the date of closing of escrow, plus all other charges included in the proof of claim, without prejudice to Crescent seeking additional charges and default interest, and conversely without prejudice to Debtor objecting at a later time to any charges (other than principal and non-default interest). This means that Debtor would have to pay out of escrow not only principal and non-default interest but also any attorney fees, late fees, or other charges included in the Proof of Claim, and Crescent subsequently could seek additional attorney fees and other charges, but Debtor subsequently could object both to any attorney fees and other charges that have already been distributed and to any new attorney fees and other charges.

The foregoing tentative ruling attempts to balance Debtor's broad rights to object to claims at any time against Debtor's unexplained delay in raising these issues, and against Crescent's rights (consistent with this Court's adequate protection order) to receive distributions without undue delay.

Debtor's latest closing statement (dkt. 114, Ex.A, at PDF p.6) lists the "Loan Payoff" as "To Be Determined" but with an (estimated) amount of \$512,500. Crescent is directed to address at the hearing the approximate dollar amount that will comport with the foregoing tentative ruling.

(vi) "Good faith" finding

The tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including

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whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders. [Judge Bason's posted Procedures, available at www.cacb.uscourts.gov]

(c) Motion for Relief from Stay (dkt. 78)

The tentative ruling is to continue this motion to the same time as the continued hearing on the Sale Motion.

(d) Motion for 2004 Examination (the "2004 Motion," dkt. 106)

Grant in part and deny in part as follows. The tentative ruling is to exercise this Court's discretion to limit discovery in keeping with the general principles set forth in Rule 26(b) and 45(d)&(e) (Fed. R. Civ. P.) and Rules 7026, 9016 and 9018 (Fed. R. Bankr. P.). Without limiting the foregoing, this Court is particularly aware that (i) although Debtor has yet to file any actual objection to Crescent's claim, that is clearly contemplated; (ii) Crescent has an interest in maintaining the confidentiality of its loan-analysis methodology; and (iii) Debtor has not shown that it lacks its own records on many of the issues on which it seeks discovery and that the relative burdens and benefits weigh in its favor.

The tentative ruling is that no later than 3/15/19 Crescent must produce the documents listed below (the list is excerpted from the 2004 Motion) and that Crescent's person most knowledgeable about the subject matter of those document requests must appear for examination at Debtor's bankruptcy counsel's law offices on 4/5/19 at 10:00 a.m. The document requests/subject matter that this Court tentatively will allow is as follows:

- (1) "ALL COMMUNICATIONS between YOU and the DEBTOR RELATING TO THE \$500,000 LOAN" (dtk. 106, PDF p.23,

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Section A.6)

- (2) "ALL DOCUMENTS, including COMMUNICATIONS, RELATING TO YOUR assessment of the default interest rate with respect to the \$500,000 LOAN" (*Id.* at PDF p.24, Section A.11)
- (3) "ALL DOCUMENTS referring or relating to YOUR calculations of damages that YOU would sustain in the event of any default under the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.17)
- (4) "ALL DOCUMENTS referring or relating to YOUR analysis of the appropriate default interest to apply to the \$500,000 LOAN" (*Id.* at PDF p.25, Section B.18)
- (5) "ALL DOCUMENTS referring or relating to YOUR efforts to arrive at a default interest rate that was intended to compensate YOU for actual anticipated damages that would result from a default under the \$500,000 LOAN" (*Id.* at PDF p. 25, Section B.22)
- (6) "All appraisals or title reports completed RELATING TO the REAL PROPERTY" (*Id.* at PDF p.26, Section B.26)

The tentative ruling is, notwithstanding Debtor's reply (dkt. 117), to sustain Crescent's objections (dkt. 109) to the remaining questions, without prejudice to Debtor seeking further discovery (either under Rule 2004 or under other discovery rules, as appropriate) based upon a proper showing. For example, as noted above Debtor now contemplates that it might object to Crescent's claim based on Crescent not fully funding the construction loan, but Debtor provides no information about the facts and circumstances, which might assist Crescent and this Court to evaluate whether discovery is or is not focused on relevant issues.

Did Crescent promise to fund the loan with no strings attached, or did it impose performance metrics, or was the remaining funding within Crescent's sole discretion? What dollar amount did Crescent refuse to fund? When did it do so? What reasons, if any, did it give? Is Debtor contemplating a breach of contract objection, or a tort claim, or both?

In addition, the tentative ruling is to overrule Crescent's remaining objections as follows:

(i) LBR 2004-1(a): While the conference between Debtor and Crescent may not have been productive (dkt. 109, p.2), this Court is satisfied that for present purposes, the parties have "attempt[ed] to confer" as required by LBR 2004-1(a).

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(ii) LBR 9013-1: Although the amount of notice of Debtor's 2004 Motion was short, Crescent has not shown that it was prejudiced by such shortened notice. The tentative ruling is to excuse any untimeliness in the 2004 Motion.

(iii) Laches: Crescent has not alleged sufficient delay to persuade this Court that relief based on laches is appropriate.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 2/8/19 (timely served, dkt. 67)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/5/19 at 1:00 p.m., no written status report required

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). Once again, the bar date order has not been served. But in view of Debtor's substitution of new counsel, the tentative ruling is to set yet another new bar date as set forth below.

(b) Advantage Realty Group Attempted Sale Properties. The parties should be prepared to address the status of any contemplated marketing and sale of properties.

(2) Deadlines/dates. This case was filed on 6/11/18.

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(a) Bar date: to be re-set to 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 46) and other relevant documents.

(a) Failure to Serve Bar Date Order (dkt. 25). The order directs the debtor to serve all parties in interest no later than 7/16/18 but no proof of service appears on the docket. Why not? The tentative ruling is to set a new bar date of 12/7/18 (the debtor should not serve any notice at this time; this Court will prepare and issue the order after the hearing).

(b) Application to Employ Hector Perez/Advantage Realty Group (dkt.

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33). There is no tentative ruling, but the parties should be prepared to address (1) the issues raised in the opposition by Crescent Capital Holding LLC (dkt. 45); (2) whether the debtor is seeking to employ Mr. Perez, or Advantage Realty Group, or both; and (3) the absence of Local Form 2014-1 (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov).

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: to be re-set see above.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/16/18 at 1:00 p.m., *brief* status report due 10/4/18

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/10/18:

Appearances required by counsel for the debtor and by the debtor itself.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 18) and other relevant documents.

(a) Status Report. Debtor used an old form of status report. Judge Bason's current posted procedures require the use of local form F 2081-1.1.C11.STATUS.RPT. Counsel is directed to review Judge Bason's posted procedures and to use the appropriate form status report in future.

(b) Motion for relief from automatic stay. There is no tentative ruling, but the debtor and Crescent Capital Holding LLC should be prepared to address the issues raised in the motion (dkt. 17) and debtor's response (dkt. 21) regarding the Las Flores property, including the previous grant of "in rem" relief against the property, and whether the debtor has provided sufficient

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evidence of insurance on the property.

(2) Deadlines/dates. This case was filed on 6/11/18.

(a) Bar date: 9/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/28/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19, 4/9/19;
04/30/19, 05/21/19

Docket 26

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances are not required.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

The Court intends to issue a written decision prior to the hearing.

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

Same.

(c) Stipulation Re: Adequate Protection and Claim Treatment (dkt. 117)

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 7/2/19 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

This Court had expected to issue a decision prior to the hearing, but has been unable to do so. The tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

Same.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 6/4/19 at 1:00 p.m. (to be concurrent with another pending motion, see dkt. 121). No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 4/30/19:

Appearances required.

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(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

(i) Evidentiary Objections of Poser Investments, Inc. ("Poser") (adv. dkt. 32)

The tentative ruling is to sustain Poser's Evidentiary Objections except as to lack of personal knowledge.

(ii) MSJ

The tentative ruling is to grant the MSJ (adv. dkt. 13) for the reasons stated in the MSJ and Poser's Reply (adv. dkt. 31). Rule 56 (Fed. R. Civ. P., incorporated by Rule 7056, Fed. R. Bankr. P.). But Judge Bason will have some questions for the parties at the hearing regarding the interaction of Federal, California, and other State law, and principles of claim and issue preclusion and retraxit.

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

The tentative ruling is to deny the Motion for Leave to File Cross-Complaint for the reasons stated in Poser's opposition (adv. dkt. 30).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 7/9/19 at 1:00 p.m., written status report due 7/2/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

This Court anticipates posting a tentative ruling at a later time.

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Tentative Ruling for 4/9/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 2/26/19:

Continue as set forth below, with a deadline to file a draft plan and disclosure statement as set forth below. Appearances are not required on 2/26/19.

(1) Current Issues

(a) First Interim Fee Application (dkt. 72). Grant \$19,755.00 in fees and \$173.80 in expenses. *Proposed order*: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: file by 4/1/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

*Warning: special procedures apply (see order setting initial status conference).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 4/30/19 at 1:00 p.m., no written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m. Appearances are not required on 1/29/19.

(1) Current Issues

(a) No current issues to address.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/26/19 at 1:00 p.m., Status Report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Appearances required

(1) Current Issues

(a) Budget Motion (dkt. 11)

Grant on a final basis.

(b) Amended Cash Collateral Motion (dkt. 50)

Grant on a final basis. Per Debtors' status report (dkt. 49, p.3), the proposed order must include language that it shall not be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23.

(c) Motion to Employ Counsel (dkt. 18)

Grant on a final basis, based on the (late-filed) declarations of Julius

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and John Adeoye (dkt. 57, 58). See Interim Order (dkt. 39) & Egbase Decl. (dkt. 47).

(d) Proposed orders

Debtors are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/29/19 at 1:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required by counsel for the debtor and by Debtors themselves.

(1) Current issues

(a) Status report (dkt. 43, 45)

Debtors have not used the Local Form, which is mandatory in this case (see Judge Bason's posted procedures, available at www.cacb.uscourts.gov). The tentative ruling is to set a deadline of 11/13/18 to file the form and serve it on the United States Trustee.

(b) Motion to Employ Debtors' Counsel (Dkt. 18)

Debtors have not adequately addressed the issues in this Court's interim order (dkt. 39). Although proposed counsel declares (dkt. 47) that he has "learned" (from unspecified hearsay) that Debtors' relatives have funded the \$15,000 retainer as a gift, there is no declaration from the two alleged donors confirming this, and confirming all of their "connections" with all parties

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in interest and their attorneys and accountants (see dkt. 39, section 6.(a)), and their informed consent to potential or actual conflicts (*id.*, sec. 6.(c)), and Debtors' informed consent (*id.*, sec. 6.(d)). The tentative ruling is to continue this matter to the same time as the continued status conference (see below) and set a deadline of 11/13/18 to file appropriate declarations and serve them on the United States Trustee.

(c) MOR1 (Sept., 2018, dkt. 36)

Debtors report that they spent \$1,350.43 in cash, with no breakdown and just a vague description about "personal expenses," "charitable contributions," etc. The tentative ruling is that any proposed order authorizing the proposed budget must include a prohibition on Debtors spending more than \$50 cash on any one item or \$250 cash in the aggregate per month without attaching photocopies of receipts.

Several insurance policies have expired or are about to (see dkt. 36, at PDF p.16). What are Debtors doing about that?

(d) Motion to Use Cash Collateral (dkt 20)

First, Debtors failed to lodge a proposed order authorizing the use of cash collateral on the terms set forth in the adopted Tentative Ruling for 10/16/18 (see calendar no. 20, 11/6/18 at 1:00 p.m., which includes a copy of that earlier tentative ruling). The tentative ruling is to set a deadline of 11/13/18 to lodge that proposed order, with a copy of that tentative ruling attached.

Second, the original motion appears to have been superseded by an amended motion, which has not been separately filed and served but instead is attached as an exhibit to a supplemental declaration. See dkt. 29, Ex.B. The tentative ruling is to set a deadline of 11/13/18 to file and serve that motion, which will be heard at the same date and time as the continued status conference (see below).

Third, the tentative ruling is that no order granting Debtors' motions regarding cash collateral shall be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23. Debtors are directed to make this clear in their proposed orders.

(b) Motion for Order Approving a Budget (Dkt. 11)

Grant on an interim basis, with a continued hearing at the same time as the continued status conference (see below). The tentative ruling is that Debtors' (late-filed) declaration (dkt. 29 & Ex.A) has adequately addressed this Court's concerns about charitable donations.

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- (2) Deadlines/dates. This case was filed on 9/12/18.
- (a) Bar date: 1/11/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 12/18/18 at 1:00 p.m., *brief* status report due 12/11/18.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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#6.00 Hrg re: Creditor's Motion for Approval of Stipulation re Adequate Protection and Claim Treatment

Docket 117

Tentative Ruling:

Please see tentative ruling in status conference (cal. no. 5, 6/4/19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Movant(s):

U.S. Bank Trust National

Represented By
Todd S Garan

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Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#7.00 Cont'd Status Conference re: Removal
fr. 2/5/19, 4/9/19; 04/30/19, 05/21/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see tentative ruling in status conference (cal. no. 5, 6/4/19 at 1:00 p.m.).

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Tentative Ruling for 2/5/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 9) and the other filed documents and records in this adversary proceeding. Based on those documents it appears that both the plaintiff (Poser Investments, Inc., "Poser") and the Debtor-defendants agree that the four properties at issue either were never properly transferred or have been returned to Debtors, and either way they are now part of the bankruptcy estate. The principal remaining issues appear to be:

- (1) Will the other defendants contest that issue?
- (2) Does this Bankruptcy Court require jurisdiction over those other

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defendants (so as to enter a judgment against them, or at least against the interests that they previously asserted against the four properties), and if such jurisdiction is required, is such jurisdiction established by their appearance in the removed State Court action, or do they consent to *in personam* jurisdiction?

(3) Does the underlying default judgment obtained by Poser's predecessor in interest against Debtors have a preclusive effect against the Debtor-defendants?

(4) Does Poser have allowable secured claims against the four properties based on the *lis pendens* and abstracts of judgment?

The parties are directed to address whether there are different principal issues that this Court has not identified. In addition, the parties are directed to address why it would be necessary to have further discovery (in addition to what has already been conducted in the State Court) to address these issues. These appear likely to be resolved based on an application of the law to the undisputed facts, after briefing - e.g., motion(s) for summary judgment.

Meanwhile, it appears appropriate to order mandatory mediation, as set forth below.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702

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F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/10/18. The tentative ruling is not to set any deadlines (e.g., for cutoff of discovery) at this time, so as to provide time for mediation and/or motion(s) for summary judgment on potentially dispositive issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

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Defendant(s):

Finnian Ebuehi	Pro Se
Elizabeth Ebuehi	Pro Se
Beta Alpha Holdings, LLC	Pro Se
Olesegun Adenowo	Pro Se
1518 WATERS AVENUE TRUST,	Pro Se
619 WEST GLADSTONE STREET	Pro Se
2551 YORKSHIRE WAY TRUST,	Pro Se
1580 W. 2ND STREET TRUST,	Pro Se
DOES 1 through 100, inclusive	Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi	Represented By Anthony Obehi Egbase
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Plaintiff(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds
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Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#8.00 Cont'd hrg re: Motion for Leave to File Cross-Complaint
fr. 04/30/19, 05/21/19

Docket 16

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see tentative ruling in status conference (cal. no. 5, 6/4/19 at 1:00 p.m.).

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

1:00 PM

CONT... Finnian Osakpamwan Ebuehi

Chapter 11

619 WEST GLADSTONE STREET Pro Se

2551 YORKSHIRE WAY TRUST, Pro Se

1580 W. 2ND STREET TRUST, Pro Se

DOES 1 through 100, inclusive Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#9.00 Cont'd hrg re: Motion For Summary Judgment
fr. 04/30/19, 05/21/19

Docket 13

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see tentative ruling in status conference (cal. no. 5, 6/4/19 at 1:00 p.m.).

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 4, 2019

Hearing Room 1545

1:00 PM

CONT... Finnian Osakpamwan Ebuehi Chapter 11

619 WEST GLADSTONE STREET Pro Se

2551 YORKSHIRE WAY TRUST, Pro Se

1580 W. 2ND STREET TRUST, Pro Se

DOES 1 through 100, inclusive Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

**United States Bankruptcy Court
Central District of California
Los Angeles
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2:19-14137 Zeta Graff

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 5/7/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances required.

(1) Current issues

(a) Sale of home

What is Debtor's progress regarding sale of the home?

(b) Motion for DIP Financing for insurance premium financing (dkt. 39, 42, 48)

Grant, subject to (a) a satisfactory explanation whether, in view of the objection by MTGLQ Investors, LP; Wells Fargo Bank, N.A. as servicer ("Wells Fargo," dkt. 55), the force-placed insurance would render the proposed Debtor's insurance duplicative (or if, on the other hand, whether it is feasible and sensible for Debtor to obtain insurance and for Wells Fargo to obtain a partial refund of its force-placed insurance); (b) naming Wells Fargo is an additional insured; and (c) the conditions set forth in the conditional opposition of Pensco Trust Co. fbo Elizabeth S. Boren IRA ("Pensco") (dkt. 53) (being named as additional insured; providing a copy of the proposed insurance agreement; reserving its rights to maintain force-placed insurance; and reserving other rights).

Proposed order: If this Court is persuaded to grant the motion, then Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) United States Trustee ("UST") Motion to Dismiss ("MTD," dkt. 23, 43)

Debtor appears to have remedied some issues raised in the MTD and to be in the process of attempting to remedy other issues. See dkt. 51 (status report) and dkt. 36 (MOR#1), 41 (Opp. to MTD), 42 (see below), 46

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CONT... Zeta Graff

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(employment of counsel). What is the UST's position on these issues? Should this hearing on the MTD be continued to the same time as the continued status conference (see below)?

(d) Budget motion (dkt. 34), amended Bankruptcy Schedules I&J (dkt. 33), and Monthly Operating Report ("MOR," dkt. 36)

This Court is troubled by Debtor's vague and inconsistent information about her income and expenditures.

(i) Cash transactions

Debtor's MOR (dkt. 36, p.5) reports over \$1300 in cash "For Business." The tentative ruling is that this is insufficient reporting, and that (A) Debtor must amend her MOR no later than 6/7/19 to account for her cash expenditures to the maximum extent possible based on her declaration under penalty of perjury, and (B) in any future MOR she must provide a complete cash accounting.

(ii) Business net income of \$12,500/mo. or \$10,000/mo.?

Debtor's amended Bankruptcy Schedules I and J (dkt. 33) and her budget motion (dkt. 34, Ex. A&B) are ambiguous and inconsistent. Debtor reports income of \$12,500/mo. from her jewelry business, Zeniba LLC (line 8a of Schedule I) but attaches a table showing \$10,000/mo. of net income (dkt. 34 at PDF p.9). That table has an asterisk next to the business name, but no corresponding note.

(iii) Very round numbers for historical amounts, and no future projections

Although the table was filed on 5/14/19 it uses only very round numbers, not actual figures, for the column entitled "3/1/19." (The other months show \$0 income or expenditures.) Why is it not possible for Debtor to provide actual dollar amounts for March, 2019, given that the motion was filed over a month and a half after the end of that month? Why does the table not include future projections?

(iv) Attorney fees of \$20,000/mo?

The table lists \$20,000 for attorney fees under the 3/1/19 column. It is unclear whether the attorney fees are intended to be a monthly business expense - in which event, why are they so high? - or bankruptcy fees - in which event, why are they included in this table, which should be limited to business income and expenses?

(v) Vague expenditures

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CONT...

Zeta Graff

Chapter 11

The table lists gross income of \$75,000 as against expenses of \$35,000 for "Stones, Materials, Supplies for Jewelry" and \$10,000 for "Travel" (apparently for the business) (in addition to the \$20,000 for attorney fees). How can parties in interest or this Court determine whether causing Zeniba, LLC to make these vague and unsubstantiated proposed expenditures, with no historical context, is within the "ordinary course" of Debtor's own business dealings (in which event no approval of this Court is normally required per 11 U.S.C. 363(c)(1)), or if instead Court approval is required (11 U.S.C. 363(b))? How much assurance can there be that spending all these funds will result in the projected gross and net income?

(vi) Double-counting and/or mis-classification?

In addition to the table's listing of expenses, Debtor's Bankruptcy Schedule J, line 21, lists more "Business expenses" of \$10,833.00, without explanation. Why are such expenses not included in the table that is supposed to show all business expenses? What is the nature of such expenses?

Debtor's table of business expenses does not include any business meals, but her MOR does list several business meals, as does her Bankruptcy Schedule J, line 21. Again, why are all business expenses not included in the table that is supposed to show all gross income, expenses, and net income from the business?

(vii) Conclusion regarding budget

This Court recognizes that Debtor's use of funds during this bankruptcy case might be a moot point if all goes as she plans, and she is able to sell her home and pay her creditors. But best laid plans do not always work out, and meanwhile creditors and this Court are being left in the dark about Debtor's actual and projected income and expenses.

Debtor is cautioned that if she engaged in transactions that should have been, but were not, authorized, there may be adverse consequences. For example, if those transactions generate any losses/liability, then she might be liable, and such liability might be nondischargeable.

The tentative ruling is to set a deadline of 6/7/19 for Debtor to file an amended budget motion and her declaration addressing all of the foregoing issues, and serve those papers on the UST, Pensco, and any other creditor who requests a copy. The tentative ruling is to set the budget motion for a hearing on the same day as the continued status conference.

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CONT...

Zeta Graff

Chapter 11

- (2) Deadlines/dates. This case was filed on 4/11/19.
- (a) Bar date: 7/23/19 (timely served 5/9/19) (dkt. 29, 31)
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 7/9/19 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Budget motion; Bankruptcy Schedule I

Debtor's status report (dkt. 19) anticipates that a budget motion will have been filed already, but as of the preparation of this tentative ruling none has been filed. Debtor has also ignored the instructions on Bankruptcy Schedule I, line 8a (dkt. 20 at PDF p.8) to "Attach a statement for each ... business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income" from the business. The tentative ruling is to set a deadline of 5/10/19 for filing and serving the budget motion and filing an amended Schedule I.

(b) UST compliance

Is Debtor now in compliance with the requirements of the Office of the United States Trustee ("UST")?

(2) Deadlines/dates. This case was filed on 4/11/19.

- (a) Bar date: 7/23/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

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CONT...

Zeta Graff

Chapter 11

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/4/19 at 1:00 p.m., *brief* status report due 5/28/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

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Hearing Room 1545

1:00 PM

2:19-14137 Zeta Graff

Chapter 11

#11.00 Hrg re: U.S. Trustee's Motion to Dismiss or Convert Case

Docket 23

Tentative Ruling:

Please see tentative ruling in status conference, calendar no. 10 (6/4/19 at 1:00 p.m.).

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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1:00 PM

2:19-14137 Zeta Graff

Chapter 11

#12.00 Hrg re: Debtor's Motion for Order Authorizing Post-Petition
Financing

Docket 42

Tentative Ruling:

Please see tentative ruling in status conference, calendar no. 10 (6/4/19 at
1:00 p.m.).

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

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Hearing Room 1545

2:00 PM

2:19-10408 Silvia M Osejo

Chapter 7

#1.00 Cont'd hrg re: Reaffirmation Agreement
[Toyota Motor Credit Corporation]
fr. 4/11/19

Docket 9

Tentative Ruling:

Deny, for the reasons stated on the record at the hearing and the following reasons: (1) the proposed reaffirmation agreement is not in Debtor's best interests, alternatively (2) it is an undue hardship, and alternatively (3) Debtor has not filed the supplemental papers that were due on 5/28/19. See Order Continuing Hearing (dkt. 12). Appearances are not required.

After this hearing date this Court will prepare the order denying Debtor's motion to approve the reaffirmation agreement.

Party Information

Debtor(s):

Silvia M Osejo

Represented By
Michael H Colmenares

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 4, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

Adv#: 2:18-01203 The Bird Nest, LLC et al v. Hollister

#2.00 Cont'd Status Conference re: Complaint to
Determine Non-Dischargeability of Debt
fr. 8/14/18, 12/18/18

Docket 1

***** VACATED *** REASON: Per parties' stipulation (adv. dkt. 11) and
order thereon....Cont'd to 11/26/19 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem

Defendant(s):

Dana Hollister

Pro Se

Plaintiff(s):

The Bird Nest, LLC

Represented By
Howard Steinberg

Roman Catholic Archbishop of Los

Represented By
Howard Steinberg

The California Institute of the Sisters

Represented By
Howard Steinberg

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Hearing Room 1545

2:00 PM

2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Appearances required.

(1) Current issues

(a) Application to employ real estate broker (dkt. 164)

Subject to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property (see Cathay Bank Obj., dkt. 243, at pp.6:25-7:6), the tentative ruling is to grant the application to employ real estate broker. The tentative ruling is to overrule Cathay Bank's other objections.

(i) Alleged lack of disinterestedness

Although Cathay Bank's supplemental opposition (dkt. 243) argues that the proposed broker, Standard Mortgage, Inc. dba Standard Realty ("Broker") is not "disinterested," and therefore is not eligible for employment under 11 U.S.C. 327(a), the tentative ruling is that this objection is not persuasive. True, an independent contractor with Broker, Mr. Akbari (who previously stated that he was an "employee" of Broker), is married to the sister of the wife of one of Debtor's officers/control persons. Cathay Bank cites authority that, under California law, being a brother-in-law is equivalent to being a brother, so the tentative ruling is that Mr. Akbari is a "relative" of an "officer" or "person in control" of Debtor and therefore he is an "insider." See 11 U.S.C. 101(45) (a "relative" means an "individual related by affinity or consanguinity within the third degree as determined by the common law"); 101(31)(B)(vi) (insider includes a "relative of a ... officer, or person in control of the debtor"). But that does not mean that Broker is an insider.

It also appears to be true that Debtor has not been as forthcoming with the connections between Broker and Debtor as would have been advisable, including both the familial relationships noted above and the recent discovery

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CONT... **Schaefer Ambulance Services, Inc**

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that Mr. Akbari "was the listing agent on the Cabrillo Street Property (during the *nunc pro tunc* timeframe in which the Broker is sought to be employed)" Cathay Bank Obj. dkt. 243, p.3:4-6 & Warrington Decl., Ex.1. Finally, as noted in the tentative ruling for 5/21/19, part (1)(b) (reproduced below), the statutory list of insiders "includes" but is not limited to the listed examples (see 11 U.S.C. 102(3)) and in addition this Court notes that a professional must be not only "disinterested" but also must not "hold or represent an interest adverse to the estate." 11 U.S.C. 327(a).

But the tentative ruling is that the facts recited above do not disqualify Broker from employment. A different real estate agent will be handling this matter (Mr. Ahmadi, dkt. 234); there is no evidence that Mr. Ahmadi or Broker itself has any incentive to act in any way adverse to the bankruptcy estate; and the failures to provide disclosure of every arguable "connection" between Broker and Debtor (within the meaning of Rule 2014, Fed. R. Bankr. P.) is unfortunate but understandable given the attenuated nature of the connections (Debtor's officer's wife's sister's husband originally was the listing agent for Broker on one of the four properties to be sold).

(ii) Alleged issues with 4.5% commission

Cathay Bank argues that Debtor has failed to justify a 4.5% commission; but to the contrary, the tentative ruling is that in general this Court should give deference to Debtor's business judgment, and that even without such deference Debtor has provided sufficient evidence that a 4.5% commission is appropriate (see dkt. 234) (Declaration regarding typical commission for commercial properties being 4-6%, and for residential properties 5-6%). Cathay Bank has provided no evidence to the contrary. Nor has Cathay Bank cited authority that Debtors are required to "shop around" for the lowest commission (which might not be the best broker) prior to selecting a broker, especially given that the proposed Broker has agreed to a slightly reduced commission from what is typical (see *id.* at 3).

(iii) Alleged lack of qualifications re industrial property

The tentative ruling is that although there may be conceptual differences between "industrial" and "commercial" properties, Cathay Bank has not established that any such difference is meaningful in the context of this case and the properties at issue.

(iv) Conclusion as to Broker

The tentative ruling is to grant the application and authorize Broker's employment subject, again, to an adequate explanation regarding the

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CONT... **Schaefer Ambulance Services, Inc** **Chapter 11**

value/price discrepancy for the Atlantic Blvd. Property. See Cathay Bank Obj., dkt. 243, at pp.6:25-7:6.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/18/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Debtor's counsel's fee application (dkt. 175, 177)

Allow \$145,683.50 in fees and \$5,714.10 in expenses for a total of \$151,397.50, and authorize draw down of the retainer (\$124,846.70 remaining), with the balance of the fees and expenses to paid from the estate.

Cathay Bank's response (dkt. 207) does not object to allowance of the fees but seeks to reserve all rights it might have regarding a purported lien on some of the retainer. Debtor's reply (dkt. 215) asserts that the bank has no such rights to reserve because it has been given a replacement lien on the

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real estate.

This Court's recollection is that the bank did not entirely waive such rights at the hearing on 5/7/19, but did indicate that it was no more going to seek disgorgement from Debtor's firm (of authorized postpetition distributions from the retainer account) than it would seek disgorgement from one of Debtor's utilities (of authorized postpetition utility payments). In any event, whatever the parties' interpretations of the representations on 5/7/19, the issue is too remote for either party to be expending any substantial attorney fees on it at this time.

Cathay Bank has its security interest in the accounts receivable that existed as of the petition date, and it has replacement liens in ongoing accounts receivable. Debtor believes the bank will be paid in full out of those things. But as adequate protection (11 U.S.C. 361, 363(e) & 552(b)) the bank has replacement liens in Debtor's real estate - to cover both (i) any diminution in the value of its security interest in the accounts receivable as of the petition date and (ii) any diminution in the value of its purported security interest in the retainer as of the petition date. Therefore the bank's and Debtor's rights are both reserved, and neither party should be spending much time on this issue. Any attorney fees spent arguing about this issue are subject to this Court's review for reasonableness (under 11 U.S.C. 330 and 331 for Debtor's counsel, and under 11 U.S.C. 506(b) for Cathay Bank's counsel).

(b) Application to employ real estate broker (dkt. 164)

The tentative ruling is, with one exception, to overrule the objection of Cathay Bank (dkt. 199), based on Debtor's reply (dkt. 214). The exception is that, although Debtor has presented evidence of the reasonableness of the broker's proposed commission and experience, and this Court generally should defer to Debtor's business judgment, Cathay Bank makes a good point that the real estate at issue ranges broadly from a single family residence to commercial property etc., and there is insufficient evidence of the proposed broker's specific experience as to each type of real estate. The tentative ruling is to set a **deadline of 5/24/19** for Debtor to file and serve a supplemental declaration detailing such experience, with a **deadline of 5/29/19** for any supplemental objection by Cathay Bank, and a continued hearing (if there is any such objection) concurrent with the continued status conference (see below).

As for disinterestedness (11 U.S.C. 101(14), 327(a)), Cathay Bank

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argues that the broker is not disinterested because, from the information on the docket, it appears that one of its alleged employees (Mr. Akbari) is a relative by marriage of one of Debtor's principals, and the principals are beneficiaries of a trust that engaged in prepetition transactions with Debtor that, according to the bank, violated Debtor's covenants with the bank. On the one hand, it is true that Mr. Akbari previously declared that he was "employed" by the broker (dkt. 77, p.1:22).

On the other hand, this Court interprets that as an (unfortunately) imprecise description of his arrangement as an independent contractor. Alternatively, even if he is an employee, this Court is not persuaded that this disqualifies the broker from employment by the estate.

Mr. Akbari apparently is married to the sister of the wife of one of Debtor's officers/control persons. The tentative ruling is that this makes him related "by affinity or consanguinity" within the fourth degree (1.officer - 2.spouse - 3.sister of spouse - 4.Mr. Akbari), so he is not a "relative" within the meaning of 11 U.S.C. 101(45) and therefore he is not an "insider" within the meaning of 11 U.S.C. 101(31)(B)(vi) or (E). That is not dispositive, because, the statutory list of insiders "includes" but is not limited to the listed examples. See 11 U.S.C. 102(3). But the tentative ruling is that the connection has been sufficiently disclosed (Rule 2014, Fed. R. Bankr. P.) and is not disqualifying.

In practical terms, this Court does not perceive that any alleged ties between the proposed real estate broker and Debtor's principal creates any incentive to lessen the price obtained for the real estate, or otherwise prejudice the interests of the bankruptcy estate. Accordingly, the tentative ruling is to approve the employment, subject to satisfactory supplemental evidence as set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: The tentative ruling is to vacate any deadline to file a proposed plan and disclosure statement, given the current posture of this case.

(c) Continued status conference: 6/4/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 5/7/19:
Appearances required.**

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week

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without further authorization of this Court. (To be clear: if Debtor in its business judgment believes that it must incur more than that amount of professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

(c) Cathay Bank's adequate protection: replacement liens v. cash payments

The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

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CONT... Schaefer Ambulance Services, Inc

Chapter 11

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

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Schaefer Ambulance Services, Inc

Chapter 11

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate declaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report

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Schaefer Ambulance Services, Inc
due 4/23/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

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(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

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The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on

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all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party

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who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.,* were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#3.10 Cont'd hrg re: Application to Employ Standard Mortgage, Inc.
dba Standard Realty as Real Estate Broker and to Enter
into Exclusive Listing Agreements
fr. 5/21/19

Docket 164

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference (calendar no. 3,
6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 7,
5/21/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#4.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19

Docket 332

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

#5.00 Cont'd hrg re: Motion for Turnover of Estate Property and Accounting
fr. 05/21/19

Docket 355

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference (calendar no. 4,
6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 12,
5/21/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#6.00 Cont'd Status Conference re: Complaint Objecting to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18, 4/9/19; 04/30/19, 05/21/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 9, 6/4/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 14, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the adversary proceeding this proceeding is being jointly administered with (calendar no. 5, 4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Tentative Ruling for 1/30/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address (a) why they failed to file the required status report, (b) why the motions for joint administration/consolidation of the two closely related adversary proceedings have not been prosecuted, and (c) the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

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CONT...

David MacMillan

Chapter 7

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not formalize the fact that the pending mediation includes this adversary proceeding by issuing an order to mediate this matter together with related adversary proceeding (2:17-ap-01229-NB)? The tentative ruling is to direct counsel for the defendants to lodge a proposed order to that effect.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

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CONT... David MacMillan

Chapter 7

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#7.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19; 04/09/19; 04/30/19, 5/7/19

Docket 1

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

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CONT... David MacMillan

Chapter 7

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#8.00 Hrg re: Plaintiff's Motion for Summary Judgment and for
Entry of a Separate Judgment

Docket 53

Tentative Ruling:

Please see tentative ruling for adversary status conference (calendar no. 7,
6/4/19 at 2:00 p.m.).

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

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CONT... David MacMillan

Chapter 7

Movant(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#9.00 Cont'd Status Conference re: Complaint to Determine
Non-Dischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18,
08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19,
4/9/19; 04/30/19, 05/21/19

Docket 1

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#10.00 Hrg re: Plaintiff's Motion for Summary Judgment

Docket 98

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 9,
6/4/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#11.00 Cont'd Order to Show Cause re: Motion to Compel Aston Business Solutions, Inc. to Produce Documents and Related Relief fr. 05/21/19

Docket 104

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference (calendar no. 9, 6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 14, 5/21/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

2:00 PM

CONT...

David MacMillan

Christian T Kim

Chapter 7

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 4, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#12.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19

Docket 43

Tentative Ruling:

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 4/30/19 at 11:00 a.m.)

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 6, 2019

Hearing Room 1545

9:00 AM

2:18-12286 Kevin James Quinn

Chapter 7

Adv#: 2:18-01158 Duff v. Quinn

#1.00 Cont'd trial re: Complaint for Objecting to Debtor's
Discharge Pursuant to Section 727 of the Bankruptcy Code
fr. 08/07/18, 11/27/18, 2/5/19, 3/28/19

Docket 1

Party Information

Debtor(s):

Kevin James Quinn

Represented By
John F Wolcott

Defendant(s):

Kevin James Quinn

Pro Se

Plaintiff(s):

James T Duff

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:17-12012 Sandra Delores Harding

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON TRUST, NATIONAL ASSOC
vs
DEBTOR

Docket 73

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

CONT... Sandra Delores Harding

Chapter 13

Party Information

Debtor(s):

Sandra Delores Harding

Represented By
Kevin T Simon

Movant(s):

Wilmington Trust, National

Represented By
Sumit Bode
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:18-12716 Peta Elizabeth Gorshel

Chapter 7

#2.00 Hrg re: Motion for relief from stay [RP]

STRATEGIC ACQUISITIONS, INC.
vs
DEBTOR

Docket 120

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) as to sending the required notices under Cal. Civ. Code 2966 - *i.e.*, only to send a 90 day pre-maturity notice on the balloon payment and then record a notice of default and election to sell under deed of trust, but not to issue a notice of sale or hold a foreclosure sale (without a further motion and a further order granting relief from the automatic stay to do those things).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

CONT... Peta Elizabeth Gorshel

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
David S Hagen

Movant(s):

Strategic Acquisitions, Inc.

Represented By
Harris L Cohen

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:18-16458 Joseph Salazar

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

JPMORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 51

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 53).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joseph Salazar

Represented By
Bryn C Deb

Movant(s):

JPMorgan Chase Bank, National

Represented By
Joseph C Delmotte
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:18-19093 Rodney Albert Gabriel, Jr

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

NATIONAL MORTGAGE, LLC
vs
DEBTOR

Docket 62

***** VACATED *** REASON: cont. to 7/2/19 at 10:00 per stip. (dkt. 67)
and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodney Albert Gabriel Jr

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:18-19169 Ramon Negrete Luna

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 36

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

CONT... Ramon Negrete Luna

Chapter 13

Party Information

Debtor(s):

Ramon Negrete Luna

Represented By
Scott Kosner

Movant(s):

U.S. Bank National Association, as

Represented By
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:19-12152 Vera Pharma Siegert and Elkin Ochoa Siegert, SR

Chapter 7

#6.00 Hrg re: Motion for relief from stay [RP]

THE PARK TOWERS HOA
vs
DEBTOR

Docket 21

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

CONT... Vera Pharma Siegert and Elkin Ochoa Siegert, SR

Chapter 7

Party Information

Debtor(s):

Vera Pharma Siegert

Represented By
Christopher S Reyes

Joint Debtor(s):

Elkin Ochoa Siegert SR

Represented By
Christopher S Reyes

Movant(s):

The Park Towers HOA

Represented By
Neil B Katz

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:19-14661 Arcelia Arredondo

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

CASA VERDE ESTATES HOMEOWNERS ASSOC
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

CONT...

Arcelia Arredondo

Chapter 13

bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

CONT... Arcelia Arredondo

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Arcelia Arredondo

Pro Se

Movant(s):

CASA VERDE ESTATES

Represented By
Mark D Estle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:17-22825 Antonio Miranda and Lidia Miranda

Chapter 13

#8.00 Hrg re: Motion for relief from stay [PP]

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 45

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

CONT... Antonio Miranda and Lidia Miranda

Chapter 13

Party Information

Debtor(s):

Antonio Miranda

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Lidia Miranda

Represented By
Rebecca Tomilowitz

Movant(s):

Wells Fargo Bank, N.A., d/b/a Wells

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:18-12109 Remy L Steverson

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]

NISSAN MOTOR ACCEPTANCE CORP
vs
DEBTOR

Docket 71

*** VACATED *** REASON: Per stipulation (dkt. 75) and order thereon

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Remy L Steverson

Represented By
David Jacob

Movant(s):

NISSAN MOTOR ACCEPTANCE

Represented By
Michael D Vanlochem

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:19-14869 Omar Laureano Cruz

Chapter 7

#10.00 Hrg re: Motion for relief from stay [PP]

MECHANICS BANK
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

CONT... Omar Laureano Cruz

Chapter 7

Party Information

Debtor(s):

Omar Laureano Cruz

Represented By
James Geoffrey Beirne

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:17-18093 Edik Besha and Aida Torabian

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/7/19, 05/21/19

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 44

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Edik Besha

Represented By
Raj T Wadhvani

Joint Debtor(s):

Aida Torabian

Represented By
Raj T Wadhvani

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

10:00 AM

2:17-19416 Genetha Williams

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 29

Tentative Ruling:

Tentative Ruling for 6/11/19 (same as for 5/21/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 31).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Genetha Williams

Represented By
Brad Weil

Movant(s):

U.S. Bank National Association, as

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
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CONT... Genetha Williams

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, June 11, 2019

Hearing Room 1545

11:00 AM

2:19-12153 Susanna Eun Jung Hong

Chapter 7

#1.00 Hrg re: Motion for Fine and/or Disgorgement of Fees Against Bankruptcy Petition Preparer Jo Bog Yoo aka Jospheh Yoo

Docket 12

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances required because (1) respondent still does not appear to understand what is and is not prohibited by the law, (2) respondent has filed a supplemental opposition (dkt. 18), to which the United States Trustee ("UST") has not had an opportunity to respond, and (3) this Court is tentatively inclined to grant some but not all of the relief requested by the UST, as set forth below.

Proposed order: The UST is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis:

(1) Mr. Yoo still appears to be confused

(a) Mr. Yoo has violated 11 U.S.C. 110

Ignorance of the law generally is no excuse. Under 11 U.S.C. 110 Mr. Yoo is prohibited from (among other things) (i) using the term "legal" or "paralegal" (in any materials viewable by the public) in connection with any bankruptcy-related services (section **110(f)**), (ii) receiving filing fees (section **110(g)**), or (iii) offering any bankruptcy-related legal advice (section **110(e)(2)(A)&(B)**).

Based on the evidence provided by the UST, Mr. Yoo clearly violated the first and second of these prohibitions (using the term "paralegal" and receiving filing fees), and (as discussed further below) he has either violated the third prohibition (providing legal advice) or, alternatively, he has charged more fees than can be allowed for any purported services that do not involve providing legal advice (*i.e.*, generally Mr. Yoo can only charge for typing services, and possibly other minimal non-legal services).

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CONT...

Susanna Eun Jung Hong

Chapter 7

There is no showing that Congress was acting beyond its powers in enacting this law. Moreover, there are good policy reasons for such a law (although, even if there were not good reasons, this Court and Mr. Yoo are bound by the law).

True, Mr. Yoo's stated motivation is commendable when he declares that he "enjoy[s] helping the low-income persons [who have been his clients] as a volunteer in [the] Korean community." Dkt. 13 at PDF p.5. But Mr. Yoo is not qualified to "help" by giving legal advice on bankruptcy matters, and his attempts to "help" may actually cause harm.

For example, to the extent (if any) that Mr. Yoo assisted Debtor in this case by providing any advice (anything more than writing up the bankruptcy petition and, perhaps, some translation), Mr. Yoo may have harmed Debtor because the bankruptcy petition in this case appears to be internally inconsistent in places. That could have caused the Chapter 7 Trustee or creditors to raise objections that Debtor would have been required to address, possibly at considerable expense and risk of a denial of his discharge or other adverse consequences. In any event, whether or not there were any adverse consequences from Mr. Yoo's activities in this particular case, Congress has prohibited Mr. Yoo from engaging in the acts at issue.

Mr. Yoo further demonstrates his lack of full understanding of the law in his supplemental declaration (dkt. 18), which erroneously asserts that the Guidelines and notice to the public issued by the UST he is permitted to use the term "paralegal." That is a mis-reading of the UST's documents (and in any event the UST could not override the statute).

(b) Section 110 does not prohibit Mr. Yoo from providing paralegal services on non-bankruptcy matters (although, in doing so, he must comply with any applicable non-bankruptcy law)

It appears that Mr. Yoo might have over-interpreted what he is prohibited from doing. He declares (dkt. 13, at PDF p.6), "I have already closed my website and will not use the term 'paralegal' for my LDA [Legal Document Assistance] business." This Court does not interpret the statute or the UST Guidelines as prohibiting the use of the term "paralegal" or maintaining a website in connection with any non-bankruptcy services. Any non-bankruptcy services, advertising, fees, and other matters are regulated by applicable non-bankruptcy law, as to which this Court expresses no opinion.

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CONT... Susanna Eun Jung Hong

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(2) Penalties for violation of 11 U.S.C. 110

(a) Return of some fees paid by Debtor under section 110(h)(2)

Under 11 U.S.C. 110(h)(2), this Court "shall" disallow "any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case" that is "found to be in excess of the value of any services rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition." (Emphasis added.) The UST argues that, although its Guidelines permit fees of up to \$200 for typing services, Mr. Yoo should not retain more than \$50 out of the \$200 he received, because the bankruptcy petition papers were not typed - they were handwritten. See dkt. 1. In other words, the UST seeks an order compelling Mr. Yoo to return \$150 to Debtor.

The tentative ruling is to require Mr. Yoo to return \$25 to Debtor. Although the UST is correct that the petition papers were not typed, it appears that Mr. Yoo hand-wrote them or caused them to be hand-written in English, and permissible activities under 11 U.S.C. 110 include both his act of filling in the petition papers by hand (without providing legal advice) and minimal translation services - *i.e.*, translation of the documents from English into Korean, and translation of Debtor's responses to the documents' questions from Korean into English, ***if*** such translation is done ***without*** giving any advice on any of the issues prohibited by section 110. Although this Court has some doubts about whether Mr. Yoo could have done this translation without inadvertently providing some legal advice, the tentative ruling on the record presently before this Court is to presume - solely in this present case - that Mr. Yoo's translation did not involve any such prohibited advice.

This Court notes, however, that in future Mr. Yoo may wish to avoid any translation of bankruptcy-related documents because it is extremely difficult to translate even the most basic documents without inadvertently providing some legal advice. For example, the bankruptcy schedules use terms such as "property" that are specialized legal terms that encompass things that might not be obvious and that might not translate well - *e.g.*, "property" of a debtor can include claims against third parties.

(b) Fines under 11 U.S.C. 110(l)

Under section 110(l),

- (1) A bankruptcy petition preparer who fails to comply with any

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Chapter 7

provision of subsection ... (e), (f), [or] (g) ... may be fined not more than \$500 for each such failure. [11 U.S.C. 110(l)(1) (emphasis added)]

The emphasized language indicates that this fine is discretionary. The tentative ruling is (i) to impose a \$1,000 fine: \$500 for the violation of section 110(f) and another \$500 for the violation of section 110(g), as requested in the U.S. Trustee's motion, but (ii) to suspend the \$1,000 fine so long as there are no future violations of section 110 by Mr. Yoo.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Susanna Eun Jung Hong

Pro Se

Movant(s):

United States Trustee (LA)

Represented By
Ron Maroko

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

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11:00 AM

2:19-12152 Vera Pharma Siegert

Chapter 7

Adv#: 2:19-01101 Vaquerano et al v. Siegert et al

#2.00 Status conference: Complaint to determine the dischargeability of a debt pursuant to 11 U.S.C. section 523(a)(2)(A) and 523(a)(6)

Docket 1

Tentative Ruling:

Continue this status conference to 7/30/19 at 11:00 a.m., to provide Plaintiffs with sufficient time to file a motion for a default judgment. See adv. dkt. 5 through 8. Appearances are not required on 6/6/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Vera Pharma Siegert

Represented By
Christopher S Reyes

Defendant(s):

Norma Pharma Siegert

Pro Se

Eklin Ochoa Siegert

Pro Se

Joint Debtor(s):

Elkin Ochoa Siegert SR

Represented By
Christopher S Reyes

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CONT... Vera Pharma Siegert

Chapter 7

Plaintiff(s):

Maria Vaquerano

Represented By
Shalem Shem-Tov

Jimmy Vaquerano

Represented By
Shalem Shem-Tov

Norma Rivas

Represented By
Shalem Shem-Tov

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

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Hearing Room 1545

11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#3.00 Hrg re: Motion in Individual chapter 11 Case for Order
Authorizing Debtors in Possession to Employ Professional
(Other Than General Bankruptcy Counsel)

Docket 38

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

Proposed order: The Egbase firm is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Employment must be under 11 U.S.C. 327(a) not 327(e)

Poser Investments, Inc. ("Poser") points out in its Opposition (adv. dkt. 3, pp.3:23-4:12) that, under the majority of courts' interpretation of the statute, employment of special counsel under section 327(e) is limited to attorneys who represented the debtors in the special proceedings prepetition. The tentative ruling is that Poser's reading of the statute is correct, but that is not the end of the story.

The tentative ruling is to follow the decision of the Bankruptcy Appellate Panel for the Ninth Circuit (the "BAP") in holding that, while employment cannot be authorized under section 327(e) in such circumstances, it can be authorized under section 327(a). See *In re Fondiller*, 15 B.R. 890 (9th Cir. BAP 1981). Section 327(e) expressly permits employment notwithstanding a lack of disinterestedness, whereas section 327(a) requires disinterestedness with respect to all matters on which the professional is proposed to be employed. See *id.* But both statutory provisions can be used to authorize limited employment (or, as in this case, an expansion of employment to handle a special matter). See *id.*

(2) This Court construes the motion as seeking an expansion of employment

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Chapter 11

The Egbase firm has already been employed under 11 U.S.C. 327(a) to handle general bankruptcy matters. See *dk. 18, 63*. This Court construes the present motion as seeking an expansion of such employment to represent Debtors in this adversary proceeding. True, the Egbase firm incorrectly checked the box on the form motion for employment of special counsel under 11 U.S.C. 327(e), but the form does not include an option to expand existing employment to handle special matters, which clearly is the intent.

(3) Retroactive authorization of employment has not been justified, beyond the usual period of approximately 30 days

Poser cites authority that retroactive authorization for employment must be limited to "exceptional circumstances" in which the applicant shows "both [a] a satisfactory explanation for the failure to receive prior judicial approval and [b] that he or she has benefited the bankrupt estate in some significant manner." *In re THC Fin. Corp.*, 837 F.2d 389, 392 (9th Cir. 1988). As to the first of these two requirements, Poser cites authority that ordinary negligence cannot qualify as a "satisfactory explanation." See *In re Downtown Inv. Club III*, 89 B.R. 59, 63-64 (9th Cir. BAP 1988). In addition, Poser notes that it

has repeatedly pointed out Debtors' counsel's need to appear and be employed See, e.g., [Adv.] Docket No. 13-1 at [p.5:10-11] ("A.O.E. Law & Associates, APC have not formally substituted into the case on behalf of the Debtors"); [Adv.] Docket No. 30 at 11 [lines 12-15] ("The Debtors' Bankruptcy Counsel Has Not Been Employed in This Case").

Based on the foregoing, the tentative ruling is that the Egbase firm cannot meet the first requirement. In addition, the tentative ruling is that the Egbase firm cannot show that it has "benefited the bankrupt estate in some significant manner" because, even assuming that the attempt to relitigate Debtors' liability to Poser might have ultimately benefitted the bankruptcy estate if it had been successful, it has not been successful.

All of that said, this Court recognizes that it is typical for proposed representatives of the estate to file papers seeking retroactive authorization for up to approximately 30 days from when the employment application is filed, because almost inevitably the professional must attend to urgent matters that take precedence. In this case the motion for employment was filed on 5/3/19 (*adv. dkt. 38*), so the tentative ruling is to authorize the

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CONT... **Finnian Osakpamwan Ebuehi**

Chapter 11

expanded employment as of 4/3/19. Fees incurred prior to that time may not be awarded.

(4) Employment is otherwise appropriate, subject to minor adjustments

Except for retroactivity as noted above, the proposed expansion of employment of the Egbase firm to cover this adversary proceeding appears to be appropriate. The standard limitations will apply (per the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov):

Notwithstanding any other provisions, Judge Bason's standard terms apply (unless struck through): (a) employment is per 11 U.S.C. § 327 not § 328; (b) payment only per 11 U.S.C. § 330(a) - no lien or superpriority claim is allowed (except as explicitly allowed – e.g., realtor commissions on court-approved sales); (c) maximum 2 hours per day of non-working time (e.g., travel, or waiting for matter to be called) absent an adequate explanation; (d) no buyers' premium for auctioneers; (e) no dual agency; (f) all matters relating to the professional's engagement, compensation and costs shall be resolved in this court, notwithstanding any provisions for arbitration, choice of venue, or the like, and (g) any indemnification, limitation of damages or the like is ineffective. See *generally In re Circle K Corp.*, 279 F.3d 669 (9th Cir. 2002) and 11 U.S.C. § 327(a) (professionals may not "hold or represent an interest adverse to the estate"). [Emphasis omitted.]

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

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CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Defendant(s):

Finnian Ebuehi	Represented By Anthony Obehi Egbase
Elizabeth Ebuehi	Represented By Anthony Obehi Egbase
Beta Alpha Holdings, LLC	Pro Se
Olesegun Adenowo	Pro Se
1518 WATERS AVENUE TRUST, 619 WEST GLADSTONE STREET	Pro Se
2551 YORKSHIRE WAY TRUST, 1580 W. 2ND STREET TRUST,	Pro Se
DOES 1 through 100, inclusive	Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi	Represented By Anthony Obehi Egbase
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Movant(s):

Finnian Ebuehi	Represented By Anthony Obehi Egbase
Elizabeth Ebuehi	Represented By Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds Rafael R Garcia-Salgado
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1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

#1.00 Hrg re: Motion for entry of an order extending the debtor's exclusivity periods during which the debtor may file a plan and solicit acceptances thereof

Docket 180

Tentative Ruling:

Please see tentative ruling in status conference (calendar no. 2, 6/11/19 at 1:00 p.m.).

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Movant(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19, 5/14/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/11/19

Appearances are not required.

(1) Current Issues

(a) Motion to Extend Exclusivity Period (dkt. 180)

The tentative ruling is to grant the Motion and extend the exclusivity deadline to file a chapter 11 plan to 8/23/19 and the deadline to obtain acceptance of that plan to 10/22/19.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date, subject to any modifications on the record at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (*served 2/22/19*).

(b) Plan/Disclosure Statement*: [TBD] At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 7/30/19 at 1:00 p.m. (to be concurrent with the status conference in Debtor's adversary proceeding against Strategic, Adv. No. 2:19-ap-01135-NB), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... **Koi Design LLC**

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/14/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's Objection and Motion to Strike ("Motion to Strike," dkt. 175) Request for Judicial Notice by Strategic Partners, Inc. ("Strategic," dkt. 161)

Deny. This Court can take judicial notice of the Magistrate Judge's report and recommendation for the limited purpose of showing that there is a substantial risk that Debtor will have a substantial debt to Strategic. That issue is relevant to the purposes, risks, and benefits of Debtor's proposed financing.

(b) Motion for Authority to Obtain Credit (dkt. 129, the "DIP Financing Motion")

Grant the DIP Financing Motion on a final basis on the same terms as set forth in the interim order (dkt. 159), and overrule Strategic's supplemental objection (dkt. 168), for the reasons set forth in Debtor's supplemental reply (dkt. 174) at pp. 3:6-5:13 & nn. 4 & 5, and based on this Court's review of Debtor's projected budget (dkt. 151, Ex.A) and Debtor's postpetition financial performance (e.g., dkt. 146). The tentative ruling is that the proposed financing has been shown to be appropriate under the statutory standards (11 U.S.C. 364(d)) and that Debtor has met its burden to show adequate protection of Strategic's interests in property of the bankruptcy estate (*id.*).

Proposed orders: Debtor is directed to lodge proposed orders on the foregoing motions via LOU within 7 days after the hearing date, and attach a copy of this latest tentative ruling, thereby incorporating it as this Court's final ruling, subject to any modifications on the record at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (*served 2/22/19*).

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- (b) Plan/Disclosure Statement*: [TBD] At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
- (c) Continued status conference: 7/16/19 at 1:00 p.m. (to be concurrent with the status conference in Debtor's adversary proceeding against Strategic, Adv. No. 2:19-ap-01135-NB), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/22/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Cash Collateral Motion (dkt. 4)

Grant on a final basis.

(b) Motion for Authority to Obtain Credit (dkt. 129, the "DIP Motion")

Grant the DIP Motion on an interim basis and continued for a final hearing at the same time as the continued status conference, based on the assertions that Wells Fargo has an oversecured, unavoidable, perfected lien. If those assertions turn out to be untrue, the DIP financing will be rejected.

Proposed orders: Debtor is directed to lodge proposed orders on the foregoing motions svia LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

- (a) Bar date: 5/17/19 (dkt. 65) (*served 2/22/19*).

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- (b) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
- (c) Continued status conference: 6/4/19 at 1:00 p.m., status report due 5/28/19.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 3/5/19

Appearances required by counsel for the debtor.

(1) Current issues

- (a) Emergency Payroll Motion (dkt. 3)
Grant on a final basis, on the same terms as in the interim order (dkt. 28).
- (b) Cash Collateral Motion (dkt. 4)
Subject to addressing the issues raised in the reservations of rights filed by creditors Wells Fargo Trade Capital Services, Inc. ("Wells Fargo," dkt. 75) and Strategic Partners, Inc. ("Strategic," dkt. 76), grant this motion on a final basis, on the same terms as in the interim order (dkt. 29).
- (c) Cash Management Motion (dkt. 6)
Subject to an update from Debtor and, if they elect to appear, counsel for the United States Trustee, regarding the adequacy of Debtor's cash management procedures, the tentative ruling is to grant this motion on a final

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basis, on the same terms as in the interim order (dkt. 27).

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65). Note: This Court's order setting the bar date (dkt. 65) directed Debtor to serve that order on all parties in interest no later than 2/22/19. Debtor's proof of service (dkt. 82) is deficient.

First, the declarant alleges (dkt. 82, pp.1:25-2:3) that someone else (an unnamed person) served the order. That is inadequate: a declaration of service must be based on personal knowledge.

Second, it appears that the person who served the order was someone employed by Debtor. Traditionally, service must be verified by someone who is "not a party" (see Rule 7004(a)(1), Fed. R. Bankr. P.), and Debtor has not cited any authority that the rule is different in bankruptcy cases.

The tentative ruling is to set a deadline of 3/4/19 for Debtor's counsel to re-serve the bar date order and file a proof of service that complies with the applicable rules. (This Court recognizes that this second notice of the bar date will not be received until closer to that bar date, but in the circumstances that appears to be appropriate.)

(b) Order setting principal status conference. The same deficiencies apply to the purported proof of service (dkt. 53) of this Court's order (dkt. 38) setting this principal status conference.

The tentative ruling is to set a deadline of 3/4/19 for Debtor's counsel to re-serve the principal status conference order and file a proof of service that complies with the applicable rules. (This Court recognizes that this second service of the principal status conference order will occur after the principal status conference; but in the circumstances that appears to be appropriate because that order provides official notice of important matters, such as notice that this Court can issue case-dispositive orders at any status conference.)

(c) Proofs of service generally. In addition to the foregoing, Debtor's

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

1:00 PM

CONT...

Koi Design LLC

Chapter 11

counsel are encouraged to redouble their efforts to provide accurate proofs of service. See, e.g., dkt. 82, last page (purported proof of service that appears to refer erroneously to status report rather than the declaration to which it is attached).

(d) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(e) Continued status conference: 5/7/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/19

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's motion for relief from automatic stay (dkt.)

The tentative ruling is to grant this motion, on the terms and conditions set forth in calendar no. 1 (2/13/19 at 2:00 p.m.).

(b) Cash flow

Debtor is directed to provide an update on its current cash flow and anticipated DIP financing.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: TBD (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: [TBD] [At a future status conference

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Koi Design LLC

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this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/5/19 at 1:00 p.m., status report due 2/19/19 (see dkt. 38).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/19

Appearances required. There is no tentative ruling, except that Debtor is directed to provide a brief overview of Debtor's current situation and possible exit strategies, and this Court intends to continue the status conference to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#3.00 Hrg re: Motion to Allow Late-filed Proof
of Claim as a Timely Filed Proof of Claim

Docket 98

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 4,
6/11/19 at 2:00 p.m.)

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

Movant(s):

Debbie Morris

Represented By
Robert P Goe

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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19

Docket 5

Tentative Ruling:

Tentative Ruling for 6/11/19:

(1) Current issues

(a) Motion to Allow Late-filed Proof of Claim as a Timely Filed Proof of Claim (dkt. 98)

Grant, subject to Debtor's reservation of rights to object to the substance of the claim. See Ltd. Opp. (dkt. 101) and Reply (dkt. 102).

Appearances are not required regarding this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Plan and Disclosure Statement (dkt. 68,69)

The parties are directed to address (i) whether Debtor projects that \$90,000 or \$240,000 will be available fourteen months after the Effective Date of the Plan - based on Ex.C to the Disclosure Statement (dkt. 68), the tentative ruling is that it is the former; and (ii) Debtor's evidence of feasibility asserting that if necessary Debtor will "seek" additional equity contributions (dkt. 95, p.3:2-6) and the evidence provided by the objecting tenants in Class 6 of the Plan that Debtor will need between approximately \$600,000 and \$650,000 to pay the insurance replacement cost of the mobile homes (plus, for those tenants who elect to remove their mobile homes, another \$2,000, under the terms of the Plan). See Disclosure Statement (dkt. 68) Ex.I, incorporated into Plan, dkt.69 (Ex.A class 6, Ex.H Note 2); Order conditionally approving Plan subject to feasibility evidence (dkt. 93); Starflinger Decl. re feasibility (dkt. 95); and Tenants' Obj. (dkt. 97).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

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CONT...

R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

(b) Plan/Disclosure Statement (dkt. 68, 69)*: see above.

(c) Continued status conference: 7/30/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Plan and disclosure statement (68, 69)

Debtor should be prepared to address whether it has come to a consensual resolution with some or all tenants regarding their move out date and related matters. To the extent any disputes remain, the parties are directed to address (i) whether this Court should recognize them, given the absence of written objections to confirmation, and (ii) the merits of those objections.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: See above.

(c) Post-confirmation status conference if the Plan is confirmed:
7/9/19 at 1:00 p.m. Status report due 6/25/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... **R44 LENDING GROUP, LLC a Delaware Limited Liabilit** **Chapter 11**

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:
Appearances required.

(1) Current issues

(a) UST motion to dismiss (dkt. 79)

Have the issues in this motion been resolved (see dkt. 82)?

(b) Third amended plan (dkt. 69) and disclosure statement (dkt. 68)

The tentative ruling is to approve the Disclosure Statement on a final basis, and confirm the Plan for the following reasons.

Service of the voting package and notice (dkt. 75, 77) appears to have complied with this Court's orders setting this hearing (dkt. 71, 72). The ballot summary (dkt. 81) shows timely acceptance by Classes 2A, 2B, and 2C, untimely acceptance by Class 2D (the last of the secured claim classes), a lack of any votes by Class 4 (nonpriority unsecured creditors, who are to receive a 30% distribution under the Plan), and votes against the plan by Class 6 (mobile home park tenants, who may receive up to the value of their mobile home, if they hold a valid tenancy, or \$2,000 for removing the mobile home). Because not every impaired class has accepted the Plan (paragraph "(8)" of 11 U.S.C. 1129(a)), Debtor must satisfy the requirements for "cramdown" under subsection "(b)" of 11 U.S.C. 1129, as well as the other requirements of subsection "(a)."

The tentative ruling is that Debtor has done so. Cramdown requires, among other things, that a plan be "fair and equitable" and not "discriminate unfairly" as to non-accepting impaired classes. 11 U.S.C. 1129(b).

None of the non-accepting classes have filed any objections to confirmation of the Plan or final approval of the adequacy of the Disclosure Statement. The treatment of Class 2D is justified by its belated acceptance of the Plan. The treatment of Class 4 appears to be justified by the legal requirement to pay secured creditors ahead of unsecured creditors, the "new value" contribution of Debtor's principal, and Debtor's cash flow projections.

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

The treatment of Class 6 appears to be justified by Debtor's disclosure of its legal theory for displacing the mobile home park tenants, and the absence of any contrary arguments or authority. See Disclosure Statement, Exhibit "I" (dkt. 68 at PDF pp.22-24).

The final requirement is the other elements of 11 U.S.C. 1129(a). Those appear to have been satisfied, both by Debtor's use of this Court's form of plan and disclosure statement and by the data included when Debtor completed those forms.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B). In addition, the proposed order must include the language required by Local Rule 3020-1(b), including a post-confirmation status conference as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: See above.

(c) Post-confirmation status conference: 7/9/19 at 1:00 p.m. Status report due 6/25/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required.

(1) Current issues.

(a) Plan (dkt. 64, the "Plan") and disclosure statement (dkt. 63, the "D/S")

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R44 LENDING GROUP, LLC a Delaware Limited Liabilit

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It appears that counsel for Debtor has manually altered the spreadsheets, which defeats the purpose of having automatic (reliable) calculations in the spreadsheets. In addition, it appears that the Plan periods in Ex.A are "1" month and 13 months later (month "14"), whereas on Ex.C Period A is 3 months, Period B is 1 month, and Period C is 6 months, which does not match. In addition, the Effective Date (e.g., on Ex.A & Ex. C) should be revised to a date that is at least two weeks after the combined hearing on the plan and D/S set forth below.

Subject to correction of these issues, the tentative ruling is to conditionally approve the disclosure statement and authorize service of the voting package, all as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 64,63)*: 12/18/18 deadline (i) to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and (ii) to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference. The proposed order should be modified so that the voting package includes Mr. Starflinger's declaration (dkt. 65).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 3/12/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required.

(1) Current issues. This Court has reviewed Mr. Starflinger's declaration (dkt. 62) and will address at the Status Conference Debtor's first amended plan (dkt. 61) and first amended disclosure statement (dkt. 60).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 12/4/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/9/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 57) will address at the Status Conference Debtor's proposed Plan (dkt. 55)

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liability
and disclosure statement (dkt. 54).

Chapter 11

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 11/27/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 8/7/18:

Continue to 10/9/18 at 1:00 p.m., per the debtor's request (Status Report, dkt. 51). Appearances are not required on 8/7/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

Continue to 8/7/18 at 1:00 p.m. Appearances are not required on 6/26/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

- (1) Current issues. This court has no issues to raise *sua sponte*.
 - (2) Deadlines/dates. This case was filed on 5/15/18.
 - (a) Bar date: 8/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: file by 8/21/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 6/26/18 at 1:00 p.m., to be concurrent with other hearings in this case. No status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#5.00 Combined hrg re: Disclosure Statement and Chapter 11 Plan

Docket 74

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 6,
6/11/19 at 1:00 p.m.)

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 4/10/18, 5/1/18, 6/12/18, 08/07/18, 9/4/18,
10/16/18, 11/6/18, 12/11/18, 01/15/19, 2/26/19,
3/26/19; 04/30/19

Docket 7

Tentative Ruling:

Tentative Ruling for 6/11/19:

Apperances required.

(1) Current issues

(a) Second Amended Disclosure Statement (dkt. 74) and Plan (dkt. 75)

The parties are directed to address the following issues.

First, Debtor has not filed any ballot summary. Why not?

Second, what is the appropriate treatment of Class 2B: the claim of Wells Fargo Bank, N.A. ("Wells Fargo")? Debtor's Plan lists a claim of \$189,058.31 for Wells Fargo, to be paid over 360 months (30 years) with 5.8% interest, resulting in amortizing payments of \$1,109.31/mo. Plan, Ex.A (dkt. 74, p.6). Wells Fargo objects (dkt. 80) that its claim is actually \$190,388.01 as of 4/22/19, and that it does not consent to a 30-year amortization but instead seeks payment over approximately 25.6 years, by the existing maturity date of 2/7/2045. This Court calculates that, if the Effective Date is approximately 7/1/19 then the term proposed by Wells Fargo would be approximately 307 months, and with 5.8% interest the amortizing payments would need to be \$1,191.33/mo. (this calculation is solely for purposes of this tentative ruling, and the parties are encouraged to do their own calculations).

The tentative ruling is that such a modification of the Plan would be feasible. Debtor's projected budget (Disclosure Statement Ex.C, dkt. 73 at PDF p.6) reflects anticipated positive cash flow of \$457.91/mo.

In addition, the tentative ruling is that such a modification of the Plan would not adversely change the treatment of any claim. Therefore under Rule 3019(a) (Fed. R. Bankr. P.) it will not be necessary to re-solicit votes, assuming for purposes of discussion that Debtor has received sufficient votes

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CONT... **Abelino Mariscal Gonzalez**

Chapter 11

in favor of the Plan for confirmation under 11 U.S.C. 1129(a) or (b).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 74, 75)*: See above.

(c) Post-confirmation status conference if the Plan is confirmed:
10/15/19 at 1:00 p.m. Status report due 10/1/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances are not required on 4/30/19.

(1) Current issues

(a) First amended Disclosure Statement (dkt. 70) and Plan (dkt. 71)

The tentative ruling is to authorize and direct Debtor to fill out and lodge, no later than 4/25/19, the form of order on Judge Bason's portion of the Court's website (www.cacb.uscourts.gov) setting a combined hearing on final approval of the disclosure statement and confirmation of the Plan. The hearing should be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 70, 71)*: See above.

(c) Continued status conference: 6/11/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Abelino Mariscal Gonzalez

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:16-12679 Michael R Totaro

Chapter 11

#7.00 Cont'd Status Conference re: Post Confirmation
fr. 4/12/16, 04/26/16, 05/17/16, 8/2/16, 9/6/16, 11/8/16,
11/29/16, 1/17/17, 1/31/17, 03/21/17, 4/11/17, 06/13/17,
9/19/17, 11/14/17, 02/13/18, 7/10/18, 9/18/18, 12/18/18

Docket 271

Tentative Ruling:

Tentative Ruling for 6/11/19:

Continue to 12/10/19 at 1:00 p.m. with a likely continuance for an additional month once this Court's 2020 calendar is set. See dkt. 327. Appearances are not required on 6/11/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Continue to 6/11/19 at 1:00 p.m. as requested in the status report (dkt. 317), with a brief status report due 5/28/19. Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

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CONT...

Michael R Totaro

Chapter 11

Continue to 12/18/18 at 1:00 p.m. with a likely continuance for an additional three months once this Court's 2019 calendar is set. See dkt. 300.

Appearances are not required on 9/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

Michael R Totaro

Represented By
Martina A Slocomb

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#1.00 Hrg re: Plaintiff's Motion for Summary Judgment

Docket 98

***** VACATED *** REASON: On calendar for 06/04/19 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Movant(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

2:00 PM

2:17-23651 Letitia Louise Wellington

Chapter 7

#2.00 Hrg re: Motion by chapter 7 trustee for order: (1) Approving sale of real property (1353 Hauser Bl., Los Angeles, CA 90019) free and clear of liens and interest; (2) Overbid procedure; (3) Real estate agent commissions; (4) Directing turnover of real property; and (5) Approving distribution of sale proceeds

Docket 154

Tentative Ruling:

Grant, subject to (1) any qualified overbids at the hearing, (2) the terms set forth in the conditional non-opposition of US Bank Trust N.A. as trustee (dkt. 159), and (3) waiver of any stay of the order (e.g., under Rule 6004(h), Fed. R. Bankr. P.) (the tentative ruling is that this Court has no authority to waive or alter the 14 day period for any appeal under Rule 8002 - see Rule 9006(c) (2) - but is willing to issue a "good faith" finding for the proposed buyers, or anyone providing similar declarations, so as to provide the protections under 11 U.S.C. 363(m)). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 11, 2019

Hearing Room 1545

2:00 PM

CONT... Letitia Louise Wellington

Chapter 7

Movant(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, June 11, 2019

Hearing Room 1545

2:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#3.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 5/21/19

TCF EQUIPMENT FINANCE
VS
DEBTOR

Docket 190

*** VACATED *** REASON: Continued to 6/18/2019 at 2:00 p.m. [dkt.
241]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

Movant(s):

TCF EQUIPMENT FINANCE, a

Represented By
Raffi Khatchadourian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:17-12381 Laura Elena Gandarilla

Chapter 13

Adv#: 2:18-01068 Los Angeles County Sheriff's Department v. Gandarilla et al

#1.00 Order To Show Cause Why Leonard Pena, Esq. Has Not Complied With This Court's Memorandum Decision RE: Allocation Of Funds Being Held In Court Registry

Docket 52

***** VACATED *** REASON: Order addressing issues raised in OSC issued (adv. dkt. 52)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Laura Elena Gandarilla

Represented By
Leonard Pena

Defendant(s):

Laura Elena Gandarilla

Represented By
Leonard Pena

Cardlock Fuels System, Inc.

Represented By
Thomas J Tedesco

Plaintiff(s):

Los Angeles County Sheriff's

Represented By
Jacquelyn H Choi

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:14-20138 Cynthia C. Rodriguez

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 55

Tentative Ruling:

Appearances required. On the one hand, this Court is inclined to deny the motion and dismiss this case because of (a) concerns about Debtor apparently under-paying creditors by shifting to them all of the risks and less than all of the gains of gambling and (b) concerns about exceeding the 60 month term (by as much as 12 months). On the other hand, despite Debtor's failure to file a response to this motion, it appears that she denies having failed to abide by her obligation to report income, which might be relevant. See dkt. 57.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cynthia C. Rodriguez

Represented By
Mufthiha Sabaratnam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:17-11281 Muriel Ann Carr

Chapter 13

#3.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 70

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Muriel Ann Carr

Represented By
Julius Johnson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-10067 Brittanie Denise Lewis and Paris Cameron Lewis

Chapter 13

#4.00 Hrg re: Motion for order reconsidering the imposition of a 180-day 11 U.S.C. section 109(g) prohibition against filing a new case

Docket 39

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons:

As set forth in this Court's Order Setting Hearing on Motion to Reconsider (dkt. 41), the tentative ruling is as follows:

On the one hand, this Court has no power to remove the statutory bar imposed by 11 U.S.C. 109(g)(1) (the tentative ruling is to disagree, respectfully, with decisions interpreting the statute to provide this Court with discretion whether to impose the 180-day bar). See, e.g., *In re Payton*, 481 B.R. 460 (Bankr. ND Ill. 2012).

On the other hand, nothing appears to prevent this Court from granting the ultimate relief requested in the Reconsideration Motion - based on mistake, inadvertence, or excusable neglect (see Rule 9023 and 9024, Fed. R. Bankr. P.) - by (a) vacating this Court's earlier order for dismissal based on Debtors' motion and (b) immediately issuing a new order dismissing this case on this Court's own motion (11 U.S.C. 105(a)), based on Debtors' admission that without the prior contributor's funds their confirmed chapter 13 plan is infeasible.

The tentative ruling is that, although it would be inappropriate to grant any such relief if Debtors had exhibited an abuse of the bankruptcy system, it is entirely appropriate to grant such relief absent any such abuse; and then once enough time has passed for Debtors to be eligible for a chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... **Brittanie Denise Lewis and Paris Cameron Lewis** Chapter 13

discharge there is nothing wrong with them exercising their statutory right to file a new chapter 7 case (if that is an appropriate option to address their financial situation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Brittanie Denise Lewis

Represented By
Jeffrey J Hagen

Joint Debtor(s):

Paris Cameron Lewis

Represented By
Jeffrey J Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 13

#5.00 Hrg re: Motion to Convert Case from Chapter 13 to 11

Docket 29

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:17-24558 Ida C. Starr

Chapter 13

#6.00 Hrg re: Debtor's Motion to keep a portion
of her 2018 State tax refund

Docket 55

Tentative Ruling:

Grant. The Debtor is only required to turn over \$2,261.00 of her 2018 tax refund to the Chapter 13 Trustee.

Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ida C. Starr

Represented By
Arsen Pogosov

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:17-23866 Felisa Dee Richards

Chapter 13

#7.00 Hrg re: Application for supplemental fees
for Eliza Ghanooni, Debtor's Attorney

Docket 84

Tentative Ruling:

Grant in full, and award \$4,962.55 in supplemental attorney's fees, for the reasons stated in the Application (dkt. 84) and Reply (dkt. 93), and overrule the Opposition (dkt. 84), based on this Court's careful review of those papers, the other filed documents in this case, and this Court's records (*e.g.*, of the matters that were skillfully handled by Applicant at the hearing on 9/27/18 at 8:30 a.m. - see dkt. 71). Appearances required so as (1) to address the apparent lack of understanding by Debtor regarding the workings of prepetition defaults, adequate protection orders, postpetition defaults, and attorney fees in bankruptcy cases and (2) to address with Debtor and her new attorneys that continued non-meritorious litigation may result in adverse consequences, such as dismissal of this bankruptcy case without a discharge, or denial of fees for her new attorneys. *Compare Baker Botts LLP v. ASARCO LLC*, 135 S.Ct. 2158 (2015) (no fee-shifting ordinarily), *with, e.g., In re DeVille*, 361 F.3d 539 (9th Cir. 2004) (fees awarded as sanction for bad faith or willful misconduct); *and see also Goodyear Tire & Rubber Co. v. Haegar*, 137 S. Ct. 1178, 1186-87 (2017) (any fee award is subject to "but for" causation test).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... Felisa Dee Richards

Chapter 13

Party Information

Debtor(s):

Felisa Dee Richards

Represented By
Mark T Young

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:17-22085 Maria Ever Dorn

Chapter 13

#8.00 Hrg re: Motion for order disallowing proof of claim #3 of the Bank of New York Mellon, fka The Bank of New York as trustee for registered holders CWABS, Inc. asset-Backed certificates, series 2005-14 serviced by Carrington Mortgage Services, LLC

Docket 60

Tentative Ruling:

Grant in part as set forth below, and continue this hearing to 7/18/19 at 8:30 a.m. Appearances are not required on 6/13/19.

Option for interim order: Debtor may lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's interim ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis:

Based on the objection (dkt. 60) and the response (dkt. 62) the tentative ruling is to issue an order (a) directing the Chapter 13 Trustee not to make any further distributions on account of the prepetition arrears that were owed to the Bank of New York Mellon (the "Bank") and (b) directing the Bank to return to the Chapter 13 Trustee any funds paid to it by the Trustee to after 2/1/29 (the Loan Modification effective date) (see dkt 55, 58). In addition, the tentative ruling is to continue this hearing to the time set forth at the start of this tentative ruling, so as to provide the Bank with time to amend its proof of claim ("POC") to reflect the changes made by the Loan Modification, including the deferred principal balance. If the amended POC moots this objection, Debtor is directed to file and serve a written withdrawal of this claim objection.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... Maria Ever Dorn

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maria Ever Dorn

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-11833 Jennifer Johanna Haas

Chapter 13

#9.00 Hrg re: Debtor's objection to Claim Number 4 by
Claimant Merrick Bank c/o Resurgent Capital Services

Docket 22

Tentative Ruling:

Continue to 7/18/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 6/13/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason
(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... Jennifer Johanna Haas

Chapter 13

cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jennifer Johanna Haas

Represented By
Caroline S Kim

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-12893 Renita Yvette Russell

Chapter 13

#10.00 Hrg re: Debtor's Objection to Claim Filed by LVNV
Funding LLC / Resurgent Capital Services as Claim 1

Docket 16

Tentative Ruling:

Grant (sustain the objection to claim #1 of LVNV Funding, LLC).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Renita Yvette Russell

Represented By
Hasmik Jasmine Papian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-11833 Jennifer Johanna Haas

Chapter 13

#11.00 Hrg re: Objection to Claim Number 3 by Claimant
Pediatric Hospitalists of America, Inc.

Docket 23

Tentative Ruling:

Continue to 7/18/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 6/13/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason
(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... Jennifer Johanna Haas

Chapter 13

cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jennifer Johanna Haas

Represented By
Caroline S Kim

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:18-20426 Matthew Michael Totaro

Chapter 13

#12.00 Hrg re: Debtor's motion for an order reducing the amount of the unsecured priority claims listed in Poc No. 2-1 filed by Department of the Treasury - Internal Revenue Service

Docket 74

Tentative Ruling:

Continue to 7/18/19 at 8:30 a.m. based on the Notice of Continued Hearing (dkt. 83). Appearances are not required on 6/13/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Matthew Michael Totaro

Represented By
Michael R Totaro

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:18-20426 Matthew Michael Totaro

Chapter 13

#13.00 Hrg re: Debtor's motion for an order disallowing claim nos. 17-1 and 18-1 filed by City of New Orleans photo safety program and parking violations bureau respectively, as priority claims and reducing the amount of their claims; and requesting the court deny claimant's late fees based on their failure to submit a required statement of the fees and other charges included in their claims

Docket 77

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The tentative ruling is to grant the motion (sustain the claim objection) to the extent of (1) categorizing both Claim 17-1 and 18-1 as non-priority unsecured claims, and (2) disallowing \$705.00 of Claim 17-1, because the evidence is that this dollar amount is based on vehicles that Debtor does not own. In other words, the tentative ruling is that Claim 17-1 is allowed as a reduced to nonpriority unsecured claim of \$3,335.00 (\$4,040.00 - \$705.00 = \$3,335.00), and Claim 18-1 is allowed as a \$410.00 nonpriority unsecured claim. In addition, the tentative ruling is to deny any additional relief, such as any implicit request for attorney fees, under Rule 3001(c)(2)(D).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... Matthew Michael Totaro

Chapter 13

Party Information

Debtor(s):

Matthew Michael Totaro

Represented By
Michael R Totaro

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:18-20426 Matthew Michael Totaro

Chapter 13

#14.00 Hrg re: Debtor's motion for an order disallowing/reducing the amount of claim nos. 12-5 filed by U.S. Bank National Association, as Trustee for Lehman XS Trust Mortgage Pass-Through Certificates, Series 2007-20N, Nationstar Mortgage, LLC dba Mr. Cooper

Docket 79

Tentative Ruling:

Grant in part and deny in part, as set forth in the Opposition (dkt. 84) and the Reply (dkt. 85), such that the arrearages are slightly reduced to \$48,543.20. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Matthew Michael Totaro

Represented By
Michael R Totaro

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:18-24857 Lance Alan Castro

Chapter 13

#15.00 Hrg re: Debtor's motion for order disallowing proof of claim 1-1 by Claimant Calvary SPV I, LLC as assignee of Citibank, N.A./AT&T

Docket 40

Tentative Ruling:

Deny (overrule the objection to claim 1 of Calvary SPV I, LLC) and deny any attorney fees associated with this claim objection, for the reasons stated below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons for denial:

(1) Debtor's objection (dkt. 40) ignores Rule 3001(c)(3) and appellate authority

The Proof of Claim contains all of the documentation required by Rule 3001(c)(3)(A)(i) through (v) (Fed. R Bankr. P.). Therefore it is *prima facie* evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f).

Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). Debtor has not, for example, asserted that this is a case of identity theft; or that he timely disputed a charge after receiving a monthly statement and that dispute was still pending as of the petition date; or any other basis to dispute this debt.

For each of these reasons, Debtor has failed to meet his burden to establish a basis to disallow the claim.

(2) No cost/benefit analysis

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Central District of California
Los Angeles
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT...

Lance Alan Castro

Chapter 13

The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No such cost/benefit analysis is included in the claim objection.

(3) No fees on this matter, absent specific authorization

Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections."

Counsel has the option of filing a declaration with evidence establishing that this claim objection was warranted under a cost/benefit analysis, and lodging a proposed order that includes the foregoing quoted phrase permitting fees to be charged for this matter. But, in view of the Rule and appellate authority that this claim objection lacks merit, this Court questions whether the cost/benefit analysis can be satisfied.

Caution: This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, June 13, 2019

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8:30 AM

CONT... Lance Alan Castro

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Lance Alan Castro

Represented By
Sanaz S Bereliani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:18-24857 Lance Alan Castro

Chapter 13

#16.00 Hrg re: Debtor's motion for order disallowing proof of claim 2-1 by Claimant Calvary SPV I, LLC as assignee of Citibank, N.A.

Docket 41

Tentative Ruling:

Deny (overrule the objection to claim 2 of Calvary SPV I, LLC) and deny any attorney fees associated with this claim objection, for the reasons stated below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons for denial:

(1) Debtor's objection (dkt. 40) ignores Rule 3001(c)(3) and appellate authority

The Proof of Claim contains all of the documentation required by Rule 3001(c)(3)(A)(i) through (v) (Fed. R Bankr. P.). Therefore it is *prima facie* evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f).

Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). Debtor has not, for example, asserted that this is a case of identity theft; or that he timely disputed a charge after receiving a monthly statement and that dispute was still pending as of the petition date; or any other basis to dispute this debt.

For each of these reasons, Debtor has failed to meet his burden to establish a basis to disallow the claim.

(2) No cost/benefit analysis

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT...

Lance Alan Castro

Chapter 13

The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No such cost/benefit analysis is included in the claim objection.

(3) No fees on this matter, absent specific authorization

Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections."

Counsel has the option of filing a declaration with evidence establishing that this claim objection was warranted under a cost/benefit analysis, and lodging a proposed order that includes the foregoing quoted phrase permitting fees to be charged for this matter. But, in view of the Rule and appellate authority that this claim objection lacks merit, this Court questions whether the cost/benefit analysis can be satisfied.

Caution: This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

CONT... Lance Alan Castro

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Lance Alan Castro

Represented By
Sanaz S Bereliani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:18-24857 Lance Alan Castro

Chapter 13

#17.00 Hrg re: Debtor's motion for order disallowing
proof of claim 8-1 by Claimant American Express
National Bank

Docket 42

***** VACATED *** REASON: Notice of Withdrawal of Motion filed
04/28/2019 - [dkt. 48]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lance Alan Castro

Represented By
Sanaz S Bereliani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:17-15086 Anthony Edison Dawson

Chapter 13

#18.00 Cont'd Hrg re: Motion to Disallow Claim Number 4 Filed by Pacific Union Financial, LLC and Transferred to Nationstar \ Mortgage, LLC dba Mr. Cooper fr. 05/16/19

Docket 81

Tentative Ruling:

Tentative Ruling for 6/13/19

Deny as moot. Creditor has filed an amended proof of claim (Claim No. 4-2), which reduces the arrears to \$2,659.25. According to the Proof of Claim, that was the dollar amount disbursed by the Chapter 13 Trustee prior to the loan modification. Therefore it appears that the amended claim renders the claim objection moot. Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/16/19

Continue to 6/13/19 at 8:30 a.m. for claimant to file an amended proof of claim, and meanwhile direct the Chapter 13 Trustee to cease making distributions on any claimed arrearage (see dkt. 84). Appearances are not required on 5/16/19.

Proposed order: If the Chapter 13 Trustee requires a written order to cease

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8:30 AM

CONT... Anthony Edison Dawson

Chapter 13

making distributions on account of any pre-loan-modification arrearage, Debtor may lodge a proposed order granting such interim relief. Debtor is directed to lodge any such proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Anthony Edison Dawson

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

Anthony Edison Dawson

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-12334 Lessie Williams

Chapter 13

#19.00 Cont'd Hrg re: Motion for Order Determining Value of Collateral
Creditor: American Credit Acceptance
fr. 05/16/19

Docket 22

Tentative Ruling:

Tentative Ruling for 6/13/19

Deny, without prejudice. This Court has reviewed Debtor's supplemental declaration (dkt. 28), but that declaration is based on a "Purchase Voucher" showing what a retail merchant (Nissani Brothers CDJR Hyundai) would pay for the vehicle (see dkt. 28 at PDF p.4), not the "replacement value" that a retail merchant would charge the public for a vehicle of similar age and condition, as of the petition date, without deduction for costs of sale or marketing. 11 U.S.C. 506(a)(2). Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/16/19

Continue to 6/13/19 at 8:30 a.m. to address the following issues. Any supplemental evidence or brief must be filed and served no later than 5/30/19. Appearances are not required on 5/16/19.

Reasons:

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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT...

Lessie Williams

Chapter 13

Evidence of value

Although owners of property generally are deemed competent to provide opinion testimony regarding the value of that property, in this case Debtor's opinion lacks any stated foundation. The tentative ruling is to require as a foundation a Kelley Blue Book report, or similar valuation. That valuation must establish the "replacement value" (not trade-in value) that a "retail merchant" would charge the public for a vehicle of similar age and condition, as of the petition date, "without deduction for costs of sale or marketing." 11 U.S.C. 506(a)(2). This Court's requirement of such foundational evidence, notwithstanding the lack of response by the creditor, is pursuant to 11 U.S.C. 105(a), 506(a)(2); Rule 104(a), 403, 602 and 701 (Fed. R. Evid.); and Rules 9014(c) and 7055 (Fed. R. Bankr. P.) which, in this Court's discretion, incorporate Rule 55(b)(2)(B) and not Rule 55(b)(1) (Fed. R. Civ. P.). See also *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005) (affirming bankruptcy court's disallowal of claims even though some creditors did not respond).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lessie Williams

Represented By
Roseann Frazee

Movant(s):

Lessie Williams

Represented By
Roseann Frazee

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#20.00 Cont'd hrg re: Motion to Disallow Claim No. 4 filed by
Department of Treasury - Internal Revenue Service
fr. 05/16/19

Docket 26

*** VACATED *** REASON: Cont. to 7/18/19 at 8:30 a.m. per stipulation
(dkt. 83) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#21.00 Cont'd hrg re: Motion to Disallow Claim No. 1 Filed by
Cavalry SPV I, LLC as assignee of FIA Card Services, NA /
Bank of America
fr. 05/16/19

Docket 28

Tentative Ruling:

Tentative Ruling for 6/13/19:

Deny (overrule the objection to claim #1 of Calvary SPV I, LLC).

Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons for denial:

The tentative ruling, adopted as this Court's final ruling, from the 5/16/19 hearing directed Debtor's counsel to either file a supplemental declaration explaining why the attorney fees for this objection are justified or withdrawing the claim objection within seven days of the hearing. As of the date of this tentative ruling, Debtor's counsel has done neither of those things.

Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, as set forth below.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... Rene Medina and Maria Medina

Chapter 13

Tentative Ruling for 5/16/19:

Continue to 6/13/19 at 8:30 a.m. to address the following issues.

Appearances are not required on 5/11/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

CONT... Rene Medina and Maria Medina
sanctions.

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#22.00 Cont'd hrg re: Motion to Disallow Claim No. 2 Filed by
Cavalry SPV I, LLC as assignee of FIA Card Services, NA
fr. 05/16/19

Docket 32

Tentative Ruling:

Tentative Ruling for 6/13/19:

Deny (overrule the objection to claim #2 of Calvary SPV I, LLC).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons for denial:

The tentative ruling, adopted as this Court's final ruling, from the 5/16/19 hearing directed Debtor's counsel to either file a supplemental declaration explaining why the attorney fees for this objection are justified or withdrawing the claim objection within seven days of the hearing. As of the date of this tentative ruling, Debtor's counsel has done neither of those things.

Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, as set forth below.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/16/19:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... **Rene Medina and Maria Medina**

Chapter 13

Continue to 6/13/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 5/11/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

CONT... Rene Medina and Maria Medina

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#23.00 Cont'd hrg re: Motion to Disallow Claim No. 5
Filed by LVNV Funding, LLC
fr. 05/16/19

Docket 37

Tentative Ruling:

Tentative Ruling for 6/13/19:

Deny (overrule the objection to claim #5 of LVNV Funding, LLC).

Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons for denial:

The tentative ruling, adopted as this Court's final ruling, from the 5/16/19 hearing directed Debtor's counsel to either file a supplemental declaration explaining why the attorney fees for this objection are justified or withdrawing the claim objection within seven days of the hearing. As of the date of this tentative ruling, Debtor's counsel has done neither of those things.

Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, as set forth below.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/16/19:

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Los Angeles
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8:30 AM

CONT... **Rene Medina and Maria Medina**

Chapter 13

Continue to 6/13/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 5/11/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

- (1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or
- (2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

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CONT... Rene Medina and Maria Medina

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#24.00 Cont'd hrg re: Motion to Disallow Claim No. 6
Filed by Discover Bank
fr. 05/16/19

Docket 39

Tentative Ruling:

Tentative Ruling for 6/13/19:

Deny (overrule the objection to claim #6 of Discover Bank). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons for denial:

The tentative ruling, adopted as this Court's final ruling, from the 5/16/19 hearing directed Debtor's counsel to either file a supplemental declaration explaining why the attorney fees for this objection are justified or withdrawing the claim objection within seven days of the hearing. As of the date of this tentative ruling, Debtor's counsel has done neither of those things.

Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, as set forth below.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/16/19:

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CONT... **Rene Medina and Maria Medina**

Chapter 13

Continue to 6/13/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 5/11/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

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CONT... Rene Medina and Maria Medina

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:18-14940 Georgetta Lee Ciufo

Chapter 13

#25.00 Cont'd order to show cause why Synchrony and Cir Law Firm should not be sanctioned for violating the automatic stay and/or co-debtor stay
fr. 4/18/19

Docket 33

Tentative Ruling:

Supplemental Tentative Ruling for 6/13/19:

Grant, and award damages in a dollar amount to be determined in future proceedings.

(1) Overview

This Court finds it helpful to distinguish between (a) *in personam* liability against (i) Debtor or (ii) Debtor's non-debtor spouse, Mr. Robert Ciufo ("Codebtor"), and (2) *in rem* liability against property of (i) Debtor or (ii) the bankruptcy estate. For example, the automatic stay distinguishes between acts to obtain possession of "property" of the estate (*in rem* liability, 11 U.S.C. 362(a)(3)) and acts to collect "a claim against the debtor" (*in personam* liability, 11 U.S.C. 362(a)(6)).

As Debtor notes (dkt. 29, p.13:7-15), the bankruptcy estate is broad. It encompasses "[a]ll interests of the debtor and the debtor's spouse in community property as of the commencement of the case" that is either under Debtor's sole or joint "control" or that is "liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable." 11 U.S.C. 541(a)(2) (emphasis added). In addition, under 11 U.S.C. 1306(a)(1), property of the estate includes all property of the same kind acquired "after the commencement of the case"

With this background this tentative ruling first reviews the applicability of the automatic stay, and then reviews the codebtor stay. Then this tentative ruling turns to damages.

(2) Violation of the automatic stay (11 U.S.C. 362(a))

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Debtor argues that paragraph "(1)" of subsection 362(a) was violated. This Court agrees. In addition, the tentative ruling is that at least one other paragraph of section 362(a) applies.

(a) Paragraph "(1)"

The automatic stay bars "the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title." 11 U.S.C. 362(a)(1) (emphasis added). Debtor argues that there is a "claim against the debtor" because California Family Code section 914 "makes his debt hers." Dkt. 42, p.2:23 (capitalization altered).

Respondents argue (dkt. 40, p.4:4-16) that Family Code section 914 applies as between spouses - in the context of a divorce, for example - and does not establish *in personam* liability of Debtor to respondents. Respondent cites no authority so holding, and this Court is not persuaded for two alternative reasons.

(i) Respondents' efforts to collect from Codebtor were efforts to collect from Debtor's *property* interests

True, Respondents' nonbankruptcy action only named Codebtor, not Debtor. But that is still an attempt to collect a claim against Debtor under the applicable law.

Respondents have not identified any separate property of Codebtor, let alone established that they limited their nonbankruptcy action to collect solely out of any such separate property. Debtor has a community property interest in all community property, which includes Codebtor's earnings. *See, e.g., In re Kimmel*, 367 B.R. 174 (Bankr. ND Cal. 2007). Under Family Code section 910(a), "Except as otherwise expressly provided by statute, the community estate is liable for a debt incurred by either spouse before or during marriage, regardless of which spouse has the management and control of the property and regardless of whether one or both spouses are parties to the debt or to a judgment for the debt." (Emphasis added.) Under 11 U.S.C. 102(2), "claim against the debtor" includes claim against property of the debtor." Therefore, Debtor is correct that the debt at issue constitutes a "claim against the debtor" within the meaning of 11 U.S.C. 362(a)(1).

(ii) Alternatively, because the debt at issue was for

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"necessaries," Respondents were attempting to collect a debt on which Debtor has *in personam* liability

Debtor has made a *prima facie* showing that the debt at issue is for "necessaries of life" (within the meaning of Family Code section 914) because the debt was for gas for Codebtor's car so he could get to work. Respondents have not overcome that *prima facie* showing. Therefore, Family Code section 914 expands the community property liability (section 910) such that Debtor has *in personam* liability (and Debtor's separate property is also liable).

Specifically, although the general rule under Family Code section 913(b)(1) is that, "The separate property of a married person is not liable for a debt incurred by the person's spouse before or during marriage," section 914 provides:

(a) Notwithstanding Section 913, a married person is personally liable for the following debts incurred by the person's spouse during marriage:

(1) A debt incurred for necessities of life of the person's spouse

(b) The separate property of a married person may be applied to the satisfaction of a debt for which the person is personally liable pursuant to this section. ... [Emphasis added.]

In other words, even if respondents were not pursuing a claim against property of Debtor (which they were), they were pursuing a claim on which Debtor is personally liable to respondents. True, their action did not name Debtor, but section 362(a)(1) does not include any such requirement that the action or proceeding at issue name the debtor as a defendant.

Nor would it make sense to read such a limitation into the statute. Congress presumably knew that collecting a claim against a debtor in bankruptcy from some non-debtor source very likely would give rise to claims for indemnity, contribution, and the like. So it would make no sense to read the automatic stay as inapplicable unless the action specifically names the debtor. That would gut the "breathing spell" that the automatic stay is supposed to provide.

(iii) Respondents misread *In re Fadel*

Respondents cite *In re Fadel*, 492 B.R. 1 (9th Cir. BAP 2013) (dkt. 40, pp.4:4-5:16) for the proposition that Family Code section 914 only applies when a debtor's separate property is used to pay debts (at which point the

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Chapter 13

debtor can then seek reimbursement from the nondebtor spouse). Respondents misread *Fadel*. In that case the creditor was pursuing foreclosure of the nondebtor husband's separate property, the debtor wife was not liable on the deed of trust note, and the BAP was only observing that, because the debtor wife had not used her separate property to satisfy her husband's debt, no reimbursement rights were triggered under Family Code section 914 and, in that context, the statute was inapplicable. *Id.* at 16.

(iv) Conclusion as to section 362(a)(1)

Respondents violated the automatic stay's prohibition on any proceeding to recover "a claim against the debtor" (11 U.S.C. 362(a)(1)) on two alternative grounds. They pursued a claim against Codebtor, and that counts as a "claim against the debtor" under 11 U.S.C. 102(3) because of Debtor's property interest in community property and Codebtor's earnings. Alternatively, respondents pursued a claim arising from "necessaries," as to which Debtor has *in personam* liability.

(b) Paragraph "(3)"

The automatic stay bars, among other things, "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." 11 U.S.C. 362(a)(3) (emphasis added). As already noted, Debtor has a community property interest in her husband's earnings, so respondents' acts to collect from Codebtor's earnings (or other community property) violated section 362(a)(3).

(3) Violation of the codebtor stay (11 U.S.C. 1301)

With inapplicable exceptions, the codebtor stay provides that "a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor" 11 U.S.C. 1301(a) (emphasis added). Respondents argue that a "debt of the debtor" in section 1301(a) is different from a "claim against the debtor" under section 362(a)(1), even though the term "debt" is defined by statute as "liability on a claim." 11 U.S.C. 101(12). This Court is not persuaded

Respondents cite *Smith v. Capital One Bank (USA)*, 845 F.3d 256 (7th Cir. 2016), but that decision is distinguishable because the debt in that case was one "for which the debtor is not personally liable but that may be satisfied from the debtor's interest in marital property" (*id.* at 258) and as noted above Debtor is personally liable for this debt of Codebtor because it was for

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"necessaries." Moreover, this Court respectfully disagrees with *Smith* to the extent it reads into section 1301 a limitation to *in personam* liability and omits *in rem* liability.

First, *Smith* reasoned that reading the codebtor stay to include claims against a debtor would be redundant of provisions of section 362(a)(1) that "likely" would apply (*id.* at 260), but it is well established that Congress, in making the automatic stay very broad, included overlapping provisions. Second, the purpose of codebtor stay is to protect debtors from indirect collection efforts, by pursuing persons who share liability with the debtor and who could then pursue the debtor or debtor's property for indemnity, contribution, or similar claims.

In this case, for example, respondents have failed to explain how their efforts to collect from Codebtor could possibly avoid depleting the bankruptcy estate by taking either community property or Codebtor's earnings (not to mention taking Debtor's time and energy to focus on the effects on her and her husband). Respondents have not explained why section 1301 should be read to permit that, to the detriment of other creditors and Debtor.

(4) Damages

The tentative ruling is that 11 U.S.C. 362(k) applies to violations of section 362(a) but not to violations of section 1301. Although non-statutory remedies appear to be available for violations of section 1301 - under 11 U.S.C. 105 or this Court's inherent powers - Debtor has not briefed such alternative remedies. In addition, those alternatives do not appear to add any greater remedies than under section 362(k), and they might provide lesser remedies. See generally *In re Taggart*, ___ U.S. ___ (6/2/2019) (addressing sanctions for violations of 11 U.S.C. 524, and declining to address standards under section 362(k)); *In re Dyer*, 322 F.3d 1178, 1190 (9th Cir. 2003).

The tentative ruling is to award the following sanctions under section 362(k): (a) \$225, payable to Debtor, for her filing fee in State Court, plus any other attorney fees incurred in State Court in response to the respondents' violations of the stay, (b) Debtor's attorney fees in this bankruptcy case for preparing and prosecuting this motion (see *In re Schwartz-Tallard*, 803 F.3d 1095 (9th Cir. 2015) (en banc)), and (c) punitive damages, payable to the bankruptcy estate, in a dollar amount to be determined. *In re Bloom*, 875 F.2d 224, 228 (9th Cir. 1989) (movant must show "reckless or callous disregard of the law or rights of others").

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Georgetta Lee Ciufu

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The tentative ruling is to deny Debtor's requests for any other damages (see dkt. 39), including (i) her asserted emotion distress damages or any punitive damages payable to her individually (except to the extent, if any, that punitive damages would result in a surplus estate). See *In re Dawson*, 390 F.3d 1139, 1148-49 (9th Cir. 2004) (to support emotional distress damages debtor must show "clear evidence" of "significant harm" caused by stay violation, as distinct, for instance, from the anxiety and pressures inherent in the bankruptcy process).

(5) Conclusion

The parties may supplement their prior oral arguments to address the foregoing issues, if they choose. In addition, unless this Court is persuaded to depart from the foregoing tentative ruling, the parties are directed to address a schedule (a) for Debtor to file declaration(s) establishing attorney fees and any allowable costs, (b) for respondents to respond, (c) for Debtor to reply. In addition, the parties are directed to address the issue of punitive damages, and what further briefing and evidence is appropriate, if any.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 6/13/19:

Appearances required.

Background

This Court did not post any written tentative ruling prior to the hearing on 4/18/19; but at that hearing this Court gave a partial oral tentative ruling, heard argument, and informed the parties that it was anticipated that a written tentative ruling would be issued prior to this continued 6/13/19 hearing. Thereafter the alleged contemnors filed a letter requesting that this Court refrain from issuing any written tentative ruling (dkt. 43) - purportedly to aid in settlement discussions - and Debtor filed a response (dkt. 46) objecting to

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that letter and asserting that, to the contrary, issuing a written tentative ruling would facilitate resolution of this matter.

Current status

Unless the docket reflects a settlement, or other developments that would warrant further deferring any tentative ruling (e.g., a stipulation to a continuance), this Court anticipates posting a tentative ruling after noon on 6/12/18, and then addressing at the hearing on 6/13/19 whether to accept further argument or not, and any other remaining procedural or substantive issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 4/18/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Georgetta Lee Ciufo

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, June 13, 2019

Hearing Room 1545

8:30 AM

2:15-26366 Rafat Hilmy Mina and Magda N Mina

Chapter 13

#26.00 Hrg re: Motion to Vacate Dismissal of Chapter 13 Case

Docket 83

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the Order Setting Preliminary Hearing on Motion to Vacate (dkt. 85).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rafat Hilmy Mina

Represented By
Scott Kosner

Joint Debtor(s):

Magda N Mina

Represented By
Scott Kosner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Thursday, June 13, 2019

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9:30 AM

2:00-00000

Chapter

**#0.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Thursday, June 13, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#0.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 13, 2019

Hearing Room 1545

1:00 PM

2:19-16732 Rodney Phillip Walker

Chapter 13

#1.00 Hrg re: Emergency motion to enforce the automatic stay per local rule 9075-1

Docket 9

Tentative Ruling:

Deny. Appearances required.

Proposed order: This Court will prepare an order after the hearing.

(1) Background

This Court received a telephone call from Debtor requesting a hearing on an extremely shortened notice on his anticipated emergency motion to enforce the automatic stay, pursuant to Local Bankruptcy Rule 9075-1. Because Debtor stated that he is facing imminent eviction, this Court authorized Debtor to notice the motion for hearing on 6/13/19 at 1:00 p.m., but this Court repeatedly instructed Debtor that he had to serve the Motion on both (a) the Chapter 13 Trustee and (b) the Plaintiff in the unlawful detainer action, by overnight mail with delivery by June 12, 2019.

(2) Debtor's Motion, and declaration re service

Debtor has now filed his motion (dkt. 9, the "Motion"). Attached to the Motion is Debtor's declaration in which he declares that he sent the motion to the plaintiff in the unlawful detainer action, Greg Walker, by overnight mail (at an unspecified address where Debtor allegedly knows he resides). Debtor's declaration also appears to indicate that he sent the Motion to Greg Walker by email. Dkt. 9 at PDF p. 76. Debtor does not address whether the Chapter 13 Trustee has been served. See *id.*

(3) Tentative ruling

The tentative ruling is to deny the Motion for lack of proper service, for three alternative reasons. First, Debtor apparently did not serve the Chapter 13 Trustee despite this Court's direction to do so.

Second, pursuant to LBR 9013-3(b), a proof of service must be filed on the Mandatory Court Form, F. 9013-3.1, with "the signature of the person who

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CONT... Rodney Phillip Walker

Chapter 13

performed the service." The local rule goes on to require specific instructions to "explicitly indicate the method of service and how [the] person or entity is related to the case." LBR 9013-3(d) (emphasis added). Debtor provided a declaration in narrative format, which is not on the mandatory form, and states that the Motion was sent by overnight delivery but does not explicitly indicate the method of service (Federal Express? the U.S. Postal Service's overnight mail? some other method?). See dkt. 9 at PDF. p. 76.

Third, Local Form F. 9013-1 provides that the person executing that form must be someone who is "over the age of 18 and not a party to this bankruptcy case or adversary proceeding." (Emphasis added.) The Court website (www.cacb.uscourts.gov) provides instructions for filling out a F. 9013-3.1 and notes that the person signing the proof of service "must be 18 years of age or older and can be someone you know, a process server, or at times law enforcement personnel, but it cannot be you. Only the person who serves (gives) the documents to the applicable parties can sign the Proof of Service of Document." (Emphasis added.) See www.cacb.uscourts.gov/site/cacb/files/documents/forms/POS%20Instructions.pdf Debtor has only provided his own declaration, which does not comply with these requirements. See dkt. 9 at PDF p. 76.

For all of the above reasons, service is ineffective, and the Motion must be denied.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Rodney Phillip Walker

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, June 17, 2019

Hearing Room 1545

9:00 AM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 4/9/19, 4/16/19

BOBS, LLC
vs
DEBTOR

Docket 778

***** VACATED *** REASON: Motion withdrawn per stipulation (dkt. 848)
and order thereon.**

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:18-12500 Kenneth Anderson

Chapter 13

#1.00 ***[CASE DISMISSED ON 5/22/19]***

Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 35

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply.

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

CONT... Kenneth Anderson

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kenneth Anderson

Represented By
Amanda G Billyard

Movant(s):

The Bank of New York Mellon FKA

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:19-11063 Franklin Duell Kates

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 26

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 30).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Franklin Duell Kates

Represented By
Barry E Borowitz

Movant(s):

The Bank of New York Mellon FKA

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:17-16175 Jesus Garcia and Lucia Garcia

Chapter 13

#3.00 Hrg re: Motion for relief from stay [PP]

FORD MOTOR CREDIT COMPANY, LLC
vs
DEBTOR

Docket 41

***** VACATED *** REASON: Voluntary Dismissal of Motion filed 06/13/19
(dkt. 43)**

Tentative Ruling:

Party Information

Debtor(s):

Jesus Garcia

Represented By
Rebecca Tomilowitz

Joint Debtor(s):

Lucia Garcia

Represented By
Rebecca Tomilowitz

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:19-15591 Randolph Jackson

Chapter 13

#4.00 Hrg re: Motion for relief from stay [UD]

EQUITY RESIDENTIAL MANAGEMENT, LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant in part and deny in part as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The declaration attached to the motion (dkt. 7 at PDF p.12) requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

CONT... **Randolph Jackson**

Chapter 13

526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because (a) the motion was not served on the persons who executed the lease (per LBR 4001-1(c)(1)(B)) and (b) there is insufficient evidence on the record to convince this Court that Debtor lacks any good faith basis for filing this bankruptcy case and asserting some sort of interest in the leasehold (e.g., as a sublessee), all of which would need to be the equivalent of a scheme to "hinder, delay, or defraud" the Movant as is required under section 362(d)(4) or the other authorities cited above.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Randolph Jackson

Pro Se

Movant(s):

EQUITY RESIDENTIAL

Represented By
Agop G Arakelian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

CONT... Randolph Jackson

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:19-15887 Cheryl Lynn Williams

Chapter 13

#5.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

CONT... Cheryl Lynn Williams Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cheryl Lynn Williams

Represented By
Marc A Goldbach

Movant(s):

Cheryl Lynn Williams

Represented By
Marc A Goldbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:19-15974 Christopher Raymond Demery

Chapter 13

#6.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

CONT... Christopher Raymond Demery Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christopher Raymond Demery	Represented By Raj T Wadhvani
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Movant(s):

Christopher Raymond Demery	Represented By Raj T Wadhvani
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:17-25005 Jose Luis Macias

Chapter 13

#7.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19

21st MORTGAGE CORPORATION
vs
DEBTOR

Docket 58

Tentative Ruling:

Tentative Ruling for 6/18/19:
Appearances required.

At the hearing on 4/29/19, this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 60).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:
Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

CONT...

Jose Luis Macias

Chapter 13

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Luis Macias

Represented By
Jaime A Cuevas Jr.

Movant(s):

21st Mortgage Corporation

Represented By
Diane Weifenbach
Rosaline S Ayoub

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:18-11355 Katherine C. Ford

Chapter 13

#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19

BAYVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 31

Tentative Ruling:

Tentative Ruling for 6/18/19 (same as for 4/30/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Katherine C. Ford

Represented By
Thomas B Ure

Movant(s):

Bayview Loan Servicing, LLC., as

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

CONT... Katherine C. Ford

Chapter 13

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:19-12569 Guillermo B Moreno

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 04/30/19

TIMOTHY J. YOO
VS
DEBTOR

Docket 15

*** VACATED *** REASON: Withdrawn [dkt. 28]

Tentative Ruling:

Party Information

Debtor(s):

Guillermo B Moreno

Represented By
Ramiro Flores Munoz

Movant(s):

Timothy J Yoo

Represented By
Carmela Pagay

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:19-14656 Kyung Hae Park

Chapter 13

#10.00 Cont'd hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate fr. 05/21/19

Docket 11

Tentative Ruling:

Tentative Ruling for 6/18/19

Deny as against creditor WBL SPE III, LLC ("Creditor"). Appearances are not required.

Reasons:

At the hearing on 5/21/19, this Court was persuaded to provide Debtor with an opportunity to correct her incomplete and misleading papers (see Tentative Ruling for 5/21/19, part "(3)," reproduced below). Debtor has not done so. See Order (dkt. 18) (continuing automatic stay as to most creditors on final basis, and as to Creditor on temporary basis, through conclusion of this hearing).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19

Appearances required. The parties should be prepared to address the following issues.

Analysis:

Creditor WBL SPE III, LLC ("Creditor") apparently holds a second deed of trust on the property that Debtor lists on her bankruptcy papers as the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

CONT... **Kyung Hae Park**

Chapter 13

family home, at 24310 Via La Casa, Valencia, CA 91354 (the "Home"). Creditor objects that asserts that, contrary to her bankruptcy schedules, Debtor has no cognizable ownership interest in the Home. More generally, Creditor objects that Debtor has not provided complete or accurate disclosures regarding who owns the Home.

The tentative ruling is that the record is not entirely clear that Debtor lacks any interest at all in the Home; and alternatively even if Debtor lacks an interest in the Home it is not clear that this would mean the automatic stay and co-debtor stay do not apply now and (if Debtor's motion is granted) in future. But the tentative ruling is also that Creditor is correct that Debtor's bankruptcy schedules are woefully inadequate, which calls into question whether Debtor can meet her burden to establish good faith, at least as to Creditor.

(1) Whether Debtor has any interest in the property

Creditor provides copies of two grant deeds. Both apparently involve the Home, and Creditor apparently asserts a second deed of trust lien against the Home.

The first grant deed (dkt. 14, Ex. A) recites that it transfers the property from Mancuso Properties III to Debtor's non-debtor spouse "as his sole and separate property" (the "Spouse"). Normally, property acquired during the marriage is subject to the presumption of community property. *In re Marriage of Valli*, 58 Cal. 4th 1396, 1400 (2014). But spouses may transmute community property to separate property. *Id.* Although the form of the first deed itself is insufficient to establish an interspousal transfer (*id.*), that is where the second grant deed comes in.

The second grant deed is an interspousal grant deed from Debtor to Spouse, which includes the statement, "This conveyance establishes sole and separate property of a spouse" Dkt. 14-3, Ex.B, at PDF p.11. In other words, this is a transfer that appears to satisfy *Valli*, so it appears that Creditor is correct and Debtor relinquished any interest in the Home.

That said, it is possible that after the House was transferred to Spouse, community property funds were used to pay off or pay down liens on the house (as Debtor's and Spouse's last-minute declarations declare, dkt. 16 & 17), and that this or something else created an interest in the House in favor of Debtor. See also *Mejia v. Reed*, 31 Cal.4th 657 (2003) (spousal transfer can be voidable fraudulent transfer). Debtor and Spouse assert that both of

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10:00 AM

CONT... **Kyung Hae Park**

Chapter 13

them intended to own the property together.

At the very least (at least without further briefing, and perhaps evidence), this Court is not prepared to rule that the bankruptcy estate has no interest in the Home. Therefore the tentative ruling is that Creditor's first argument is not persuasive.

(2) The automatic stay and co-debtor stay are broad

This Court notes that the automatic stay and co-debtor stay apply to more than just property interests. It is not clear from Creditor's opposition (dkt. 14) whether it asserts any *in personam* claim against Debtor (as opposed to claims solely against Spouse and *in rem* claims against the Home), and on this or other grounds the stay might apply now and (if Debtor's motion is granted) in future. See 11 U.S.C. 362(a)(1) through (8) *and* 1301.

Accordingly, to the extent Creditor is arguing that the automatic stay does not apply, this is an alternative reason to reject Creditor's argument.

(3) But Debtor appears not to have provided candid disclosures

(a) Ownership of Home

As Creditor points out, Debtor's bankruptcy schedules (dkt. 1) do not disclose the Spouse's apparent ownership of the Home. Nor do they even disclose that Spouse is a co-debtor with respect to the debt on the Home. *Id.*

(b) Purported income

This Court's own review of the bankruptcy schedules reveals that Debtor's Bankruptcy Schedule I, line 8a, provides woefully inadequate information about the purported means of funding Debtor's proposed chapter 13 plan. Debtor alleges that she and Spouse have been employed, for one month, by an entity called Boss Janitorial Services, Inc. But, although Debtor and Spouse apparently assert that they are employees not owners of that business, no employment income is listed. Instead Debtor lists only round numbers of \$2,000.00 and \$5,000.00 as "business" income, with no statement showing gross receipts, expenses, and calculation of net income (as required by the instructions to that form). Among other things, there is no disclosure of any employment taxes or other payroll or business deductions or expenses. In other words, the purported \$2,000 and \$5,000 of income lacks any foundation and appears to be nothing more than a hope of potential future income.

(c) Whether Debtor has met her burden to show good faith

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CONT...

Kyung Hae Park

Chapter 13

Based on the foregoing, Debtor appears to have filed bankruptcy schedules that are very misleading if not simply wrong about the ownership of the House and whether Spouse is a co-debtor; and Debtor's Bankruptcy Schedule I provides woefully inadequate information about the purported income that is supposed to be used to fund any chapter 13 plan. Can Debtor satisfy her burden under 11 U.S.C. 362(c)(3)(B) to demonstrate that the filing of this case is in good faith, either as to Creditor or as to all creditors?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kyung Hae Park

Represented By
Matthew D Resnik

Movant(s):

Kyung Hae Park

Represented By
Matthew D Resnik
Matthew D Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

10:00 AM

2:17-11281 Muriel Ann Carr

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/27/18, 12/11/18, 1/8/19, 3/26/19;
04/30/19, 05/21/19

CHAMPION MORTGAGE COMPANY
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 6/18/19:

Grant in part as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis

Debtor has been given an exceptional amount of leeway. The tentative ruling is to grant relief from the automatic stay, subject to a final opportunity for Debtor to comply with this Court's prior order on this motion. See Order (dkt. 55).

(1) Background

The motion was filed on 10/5/18. Movant established that it was entitled to reimbursement of its payment of real estate taxes and force-placed insurance (originally in the amounts of \$9,851.79 and \$2,175.72, respectively, according to this Court's records). See Order (dkt. 55). Debtor was directed to cure the tax-related debt over the remaining term of her chapter 13 plan, by filing a motion to modify the plan ("MoMod"). See *id.*

Debtor has filed multiple MoMods, but they all have deficiencies, such as seeking impermissibly to extend the term beyond the permissible 60 months. See Trustee's Comments (dkt. 74); MoMods (dkt. 61, 62, 70, 73);

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and Amended Plans (dkt. 63, 69). Debtor's proposed modifications also do not provide for ongoing interest on the debt owed to Movant for reimbursement of tax payments.

Note regarding interest: At a hearing on 6/13/19 at 8:30 a.m. on the latest MoMod, Debtor suggested that Movant had waived any claim for interest. But a "waiver is the intentional relinquishment or abandonment of a known right" (*Hamer v. Neighborhood Housing Svcs.*, 138 S.Ct. 13, 17 n.1 (2017) (citations and internal quotation marks omitted)) and there is no evidence of any such waiver. Rather, although interest presumably should be paid in keeping with the loan documents and this Court's prior order (dkt. 55), Movant may have determined that it would be too expensive to object to the MoMod on this basis.

In any event, there is a very long history of hearings on Movant's request for relief from the automatic stay, and Debtor's failed attempts at a MoMod (and, impermissibly, amended plans). In addition to the numerous papers on the docket, this Court's records show that these issues have been raised in connection with multiple hearings (sometimes hearings on unrelated matters) including those set for 11/27/18, 12/11/18, 1/8/19, 3/26/19, 4/30/19, and 5/21/19 (at which this Court was persuaded to continue the hearing yet again to this 6/18/19 date), and 6/13/19.

Based on the facts and circumstances in this case, this Court orally ordered at the 6/13/19 hearing on the latest MoMod that Debtor would have one **final opportunity** to cure the deficiencies. Debtor was directed (i) to obtain signatures from both Movant and the Chapter 13 Trustee on a proposed order approving the latest MoMod and lodge that proposed order as soon as possible, or alternatively (ii) to file and serve papers **no later than 7/8/19** explaining why this Court should approve the MoMod despite the lack of signatures (the deadline for any response to Debtor's papers was set at **7/12/19**). That is Debtor's last chance to cure these deficiencies.

(2) Modification of automatic stay

The proceedings described above have been prejudicial to Movant in multiple ways. It has not been reimbursed for the tax-related advances it made. It has had to incur attorney fees constantly, to address issues which should have been resolved long ago. True, those attorney fees presumably can be added to the total debt, and Movant might eventually be reimbursed, but meanwhile Movant is being forced to extend more credit to Debtor and is

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not being reimbursed as ordered by this Court (dkt. 55).

Debtor has attempted at various hearings to place some of the blame at Movant's feet. But there is no evidence to support those assertions.

Based on the foregoing, there is ample "cause" for relief from the automatic stay. Therefore this Court "shall" grant relief from the automatic stay, which can take the form of modifying or conditioning the automatic stay. See 11 U.S.C. 362(d).

The tentative ruling is to modify and condition the automatic stay as follows. If Debtor fails in her final attempt to obtain approval of a MoMod by the conclusion of the continued hearing that is set for 7/18/19 at 8:30 a.m., then Movant is authorized to lodge a proposed order terminating the automatic stay, which this Court may issue without further notice or hearing. Such relief is further subject to the following standard provisions.

(a) No relief in other cases

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(b) Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

(c) Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/9/19:

Terminate the automatic stay, because Debtor has not filed an amended plan as required by the terms of the Adequate Protection Agreement of the parties (see dkt. 55). Appearances are not required.

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Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 3/26/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the assertion by Debtor's attorney that Debtor is unable to comply with this Court's Order on Motion for Relief From Stay (dkt. 43) because her checks in payment of the tax-related debt have been returned to her with a notation that she has now overpaid that debt, and any other matters relevant to this motion. See dkt. 47.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Movant's supplemental papers (dkt. 37) assert debts for (1) reimbursement for paying real estate taxes of \$9,851.79 and (2) reimbursement for force

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placed insurance of \$3,912 (2 x \$1,956). The tentative ruling is (1) to require Debtor to pay the tax-related debt via a motion to modify her confirmed chapter 13 plan to amortize that debt over the remaining term of the plan, and (2) to pay the insurance-related debt via a standard adequate protection order ("APO").

(1) Real estate taxes

Debtor argues (dkt. 41) that her chapter 13 plan was intended to include when it listed movant (or its predecessor in interest) with a debt of \$33,000 (dkt. 15, confirmed by dkt. 22). But it appears that Debtor listed the wrong party with respect to taxes.

According to Movant, it did not pay those taxes until many months postpetition, on 8/28/28 (see dkt. 37, para. 20), so as of the petition date the debt was owed to the tax authorities, not Movant. Therefore Debtor should have listed the tax authorities in her chapter 13 plan.

Because Debtor did not do so, it appears that those tax debts went unpaid until Movant paid them. Meanwhile, as provided in the confirmation order (dkt. 22), Movant's proof of claim (no. 2-1) controls the monthly distributions by the Chapter 13 Trustee, and that proof of claim apparently did not include the taxes (it is for \$20,085.53, which Debtor concedes is substantially less than the \$33,000 estimated in her plan).

Based on the foregoing, it appears that the best way to restore the parties to the position they would have been if Debtor had correctly included the tax authorities in her plan is to require Debtor to file a motion to modify her plan to amortize the tax-related debt, with interest payable to Movant at the contract rate, over the remaining term of the chapter 13 plan. The tentative ruling is that Debtor must file such a motion in time to be self-calendared for hearing on the chapter 13 calendar on 2/21/19 at 8:30 a.m.

(2) Insurance

The force placed insurance appears to be for postpetition periods (and paid by Movant postpetition). Accordingly, it is a postpetition default, and a standard six month APO appears to be the appropriate remedy (with the usual cure period of 14 days after any default under the APO, and a maximum of three opportunities for any such cure). The tentative ruling is to direct Movant to prepare and lodge that APO within seven days after this hearing.

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Tentative Ruling for 12/11/18:

At the hearing on 11/27/18 this Court was persuaded to continue this matter as Debtor appeared to contest the tentative ruling and inform the Court that the property is insured. Counsel for Movant informed the Court that a declaration re insurance coverage for past period was required.

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they have resolved their issues re insurance coverage.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1).

Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the

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automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Muriel Ann Carr

Represented By
Julius Johnson

Movant(s):

Champion Mortgage Company

Represented By
Sean C Ferry
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#12.00 Hrg re: Motion for relief from automatic stay [RP]

BAKERS 26, LLC
vs
DEBTOR

Docket 6

Tentative Ruling:

Grant this motion of Bakers 26, LLC ("Bakers") for relief from the automatic stay, as provided below, and overrule the opposition (dkt. 57), all subject to oral argument (see Order Shortening Time, "OST," dkt. 10). The tentative ruling is to excuse any lack of strict compliance with the OST because notice and service have been adequate under the circumstances. See dkt. 23, 42, 43. Appearances required.

Proposed order: Movant Bakers is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling - including the tentative rulings from Debtor's prior bankruptcy case (reproduced below) - thereby incorporating this tentative ruling as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Analysis, and termination of automatic stay

This Court is mindful of the fact that this matter is being heard on shortened time, early in this bankruptcy case. Nevertheless, on the present record, and subject to oral argument, the tentative ruling is to terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4), for the reasons set forth in the motion papers (dkt. 6-9) and the filed documents and this Court's records from Debtor's prior case combined with the lack of progress in this case.

(a) Evidentiary issues

The tentative ruling is to sustain Debtor's hearsay objection regarding the alleged basis for not renewing insurance (see dkt. 60) but otherwise accept the evidence of insurance cancellation for two reasons. First, it is part

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of Bakers' business to assure that its interests in the property are adequately protected by insurance, so the business records exception and the declarant's knowledge of the business establish that Debtor has not complied with requirements to provide Bakers with assurances of the maintenance of insurance. Rules 602 & 803(6) (Fed. R. Evid.). That is enough to shift the burden to Debtor to establish that it does, in fact, have adequate insurance. Second, and alternatively, Debtor does not appear to dispute the facts on which this Court is relying regarding insurance (see below).

The tentative ruling is to sustain Debtor's hearsay objection (dkt. 59) regarding the alleged basis for restricting Debtor's use of the central reservation system maintained by Days Inn Worldwide, Inc. ("Days Inn") - the alleged "four to five months" of missed payments - but otherwise accept the evidence that Debtor has been restricted in its use of Days Inn's system. The reasons are the same as stated above in connection with the evidence regarding insurance.

(b) Cause for relief

This Court is especially troubled by the following:

(i) Gap in insurance: see the tentative ruling for calendar no.16 (on this 10:00 a.m. calendar for 6/18/19);

(ii) Real estate taxes: Debtor's principal had promised to pay these taxes in the first bankruptcy case as part of the "adequate protection" to Bakers, but apparently those taxes were not paid then and the deficit has only gotten worse (see dkt. 6-2, Ex.18, at p.126), all of which means that any promises to provide "adequate protection" in this second bankruptcy case (e.g., the promise to pay \$15,000 per month; the assertion that Debtor's condition is improving rather than deteriorating; and the assertion that Debtor will have a viable exit strategy within a reasonable time) must be viewed with considerable skepticism;

(iii) Reservation system: Debtor apparently is restricted in its use of Days Inn's reservations system (dkt. 6-3, Ex.21, at p.189, *and* dkt. 57, p.3, para.3.c.(6));

(iv) Property condition report: although this Court recognizes that the pool, hot tub, and other aspects of the property might not be as bad as suggested in the report (see dkt.57), there is still substantial evidence of dangerous conditions and deferred maintenance (see dkt. 6-4, Ex.22, at pp.211-74, and the additional photographs, *id.*, Ex.23, at pp.275-77) (see also the tentative ruling for Bakers' motion to dismiss this bankruptcy case,

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calendar no. 16 on this calendar for 10:00 a.m. on 6/18/19);

(v) Delay: Debtor's "first day" wage, cash collateral, and utility motions (dkt. 26-28 *et seq.*) were not filed until after 6:30 p.m. on 6/12/19, when the petition was filed on 6/7/19 - Debtor should have known from its prior bankruptcy case (Case No. 2:18-bk-22059-NB) the importance of providing information and coordinating with its attorneys to have those motions filed immediately, for the reasons set forth below;

(vi) Payroll: Debtor either has not made the 6/14/19 payroll - and the tentative ruling is that this would show gross mismanagement in not seeking this Court's approval early enough - or has paid employees for that payroll period without this Court's approval - which presumably includes at least some prepetition hours worked and therefore is an unauthorized payment of prepetition debt;

(vii) Cash collateral: Debtor either has not been using cash collateral - which would mean a lack of normal business operations - or has been using cash collateral without authorization (11 U.S.C. 363(c)); and

(viii) Lack of evidence: Debtor provides no evidence (x) of any currently pending offers for the hotel, or other progress in the various exit strategies it has had since commencement of its prior bankruptcy case over eight months ago, on 10/14/18 (Case No. 2:18-bk-22059-NB), (y) in support of its projected income and expenses (see Cash Collateral Budget, dkt.27, Ex.1), or (z) regarding the current state of its online bookings and its franchise with Days Inn (apart from acknowledging, vaguely, that there is a restriction on Debtor's use of its reservation system).

The tentative ruling is to grant the relief requested in the motion, as further set forth below, based on the foregoing and on the other matters addressed in the tentative ruling on Bakers' motion to dismiss this bankruptcy case (calendar no. 16 on this 10:00 a.m. calendar for 6/18/19). As to "*in rem*" relief in particular, the tentative ruling is that Bakers has met its prima facie burden of establishing the existence of a "scheme" to "hinder" or "delay" or "defraud" it, involving the prior bankruptcy case and this one. These two bankruptcy cases have prevented Bakers from exercising remedies for a total of over eight months (since the filing of the prior bankruptcy case on 10/14/18); these cases have not been adequately prosecuted; and the tentative ruling is that those things have established a scheme to hinder and delay Bakers within the meaning of the statute.

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(2) Standard terms

(a) Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(b) Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

(c) Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

(3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

COPIES OF SELECTED TENTATIVE RULINGS FROM DEBTOR'S PRIOR BANKRUPTCY CASE (Case No. 2:18-bk-22059-NB):

Tentative Ruling for 5/7/19:

Appearances required.

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(1) Current issues

(a) Motion of Baker 26, LLC ("Baker") to dismiss case (the "MTD," dkt. 117-131), Debtor's opposition (dkt. 138), and Baker's reply (dkt. 152)

Dismiss this case, without a bar. Under 11 U.S.C. 1112(b) this Court "shall" dismiss (or convert) this case for cause, with only limited exceptions. There does not appear to be any argument that conversion is practical, so the question is whether to dismiss.

(i) Insurance

One type of "cause" to dismiss is "failure to maintain appropriate insurance that poses a risk to the estate or to the public." 11 U.S.C. 1112(b)(4)(C). The MTD points out that Debtor's insurance is expiring very soon, and that there is no evidence of Debtor's financial ability to renew its insurance, or an insurer's willingness to do so. In response, Debtor asserts only that it currently has insurance - which is expiring on 5/25/19. See dkt. 138, at PDF p.17, para.27, and Ex.4 at PDF p.33. That is insufficient.

Debtor asserts (dkt. 138, at PDF p.17, para.28) that it is "finalizing" negotiations with prospective purchasers and intends to bring both a motion to sell the hotel property and an application to employ its real estate broker by the time of this hearing on the MTD. Theoretically, a pending sale might be one way of taking care of the insurance issue, because it might be grounds for this Court to find and specifically identify "unusual circumstances" establishing that dismissing this case is not in the best interests of creditors and the estate, if Debtor can establish "a reasonable likelihood that a plan will be confirmed ... within a reasonable period of time" and if Debtor establishes "reasonable justification" for the apparent failure to arrange for future insurance and establishes that insurance will be obtained "within a reasonable period of time fixed by the court." 11 U.S.C. 1112(b)(2). Presumably, the method of curing the lack of insurance from 5/25/19 forward would be that the purchaser would pay for that insurance; and presumably the proposed "plan" would be essentially to provide for distributing the proceeds of a sale under 11 U.S.C. 363.

The main problem with all of this is that Debtor is out of time: no application to employ any broker has been filed (let alone approved); and no 363 sale motion has been filed (let alone granted). That application and sale motion cannot reasonably be expected to be filed, served, heard, and granted, and the sale itself cannot be expected to close, all in the next two

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weeks and three days (before the existing insurance expires on 5/25/19).

Conceivably, Debtor's principal, Ms. Rhonda Chung, might be willing and able to fund the insurance (using funds from her 401(k) retirement account, or some other source, as she has done with some other expenses in the past). But Debtor has not suggested that any such funding is forthcoming; Debtor's principal apparently has not lived up to her commitment to pay real estate taxes (see below) so any mere promise to pay insurance would be inadequate on the present record; and in any event Debtor has not provided any evidence that an insurer is ready, willing, and able to extend future insurance.

For all of these reasons, it appears that this Court has no choice. Congress has directed that this Court "shall" dismiss this case due to "failure to maintain" appropriate insurance. 11 U.S.C. 1112(b)(4)(C).

(ii) Taxes, adequate protection payments, losses, and management

Other types of cause for dismissal include failure to pay postpetition taxes, "gross mismanagement," failure to comply with an order of the court, or "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(I), (A), (B) & (E). The MTD alleges that Debtor has failed to pay postpetition taxes (see dkt. 131, p.3, para.7) and Debtor has not contested that issue (although, as noted above, Debtor's principal had promised to fund tax payments - see tentative ruling for 11/27/18, part "(1)(a)," reproduced below).

The MTD also alleges that Debtor has failed to pay several required "adequate protection" payments to Baker (or its predecessor in interest). See dkt. 131, pp. 4:27-5:16. Again, Debtor has not contested that issue.

As for "gross mismanagement" or "substantial or continuing loss" or "diminution," this Court previously has expressed concerns (both at hearings and in the tentative ruling for 2/5/19, part "(1)(a)," reproduced below). The MTD alleges (dkt. 131, p.4:1-21) that Debtor has lost over \$44,000 since this case was filed on 10/14/18, despite approximately \$41,000 in cash infusions by Debtor's principal. Again, Debtor has not contested this issue.

True, Debtor has shown a modest amount of improvement recently. In addition, this Court is not persuaded that a sale of property can never be a "rehabilitation" - to the contrary, Debtor alleges that it has engaged in both physical rehabilitation (repairing the premises, installing safety equipment, etc.) and management rehabilitation (terminating management that was

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embezzling, restoring online booking services, etc.), so the most significant issues appear to be (A) whether there is a "reasonable" likelihood that taxes will be paid and that the (modest) recent progress will offset the prior losses, and (B) whether there is sufficient "justification" (under 11 U.S.C. 1112(b)(2)(B)(i)) for prior failure to pay taxes, mismanagement, losses, and failure to comply with the budget approved by this Court's orders.

On the present record, the tentative ruling is that Debtor has not met its burden to provide evidence of those things. Debtor offers no justification for its principal not living up to her commitment to pay real estate taxes or for postpetition mismanagement by current management; and as noted above there is no section 363 sale motion on file, pursuant to which a purchaser might cure that non-payment or, perhaps, cure other issues.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

[OMITTED]

Tentative Ruling for 3/5/19:

[OMITTED]

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges,"

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"Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #3, Dec. 2018, dkt. 71; Decl. dkt. 75)

Debtor's recently reported finances are dismal, as noted in the tentative ruling for 1/8/19. It appears that Debtor's occupancy rate is less than half of what was projected (which is itself less than half of available rooms), and that Debtor is failing to pay some franchise fees, utilities, housekeeping expenses, and other items.

Debtor blames outages in its online booking services, but as noted in the limited opposition to extending exclusivity (dkt. 78) filed by First Choice Bank, Debtor's behavior in the face of problems with online booking is puzzling. Why did Debtor not proactively contact the online booking agencies around the time it filed its bankruptcy petition? Why did Debtor not monitor its own finances sufficiently to realize that those agencies had not been paid? Debtor asserts that it was given no advance notice, but that seems highly unusual, so where is evidence of the telephone calls, emails, and letters immediately reacting, objecting to being cut off with no prior notice, and offering immediate payment of any missed bills? This Court takes judicial notice that the booking agencies are large enough to be familiar names, and presumably they have experienced hotel bankruptcies before, so what reasons did they give for their alleged lack of notice and over-reaction? As the bank suggests, the outages in booking were long enough that one would expect Debtor to have made repeated and considerable efforts to resolve the situation, possibly including meetings in person, but there is no evidence of that.

All of the foregoing suggests "gross mismanagement" of the estate, which is one possible basis to dismiss or convert this case. 11 U.S.C. 1112(b)(4)(B). The facts recited above also appear to constitute a "substantial" loss or diminution of the estate, and calls into question whether there is a "reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(A). In addition, these facts call into question whether Debtor will be able to meet the feasibility test for any proposed plan. 11 U.S.C. 1129(a)(11).

The parties are directed to address whether this case should be dismissed or converted.

(b) Alleged infusions

There have been promises during this case that cash infusions would

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be made by Debtor's principal, Rhonda Chung. The Status Report (dkt. 79, p.4:8-21) alludes to some, but the precise dollars amounts are generally unclear, as are the dates, and precisely how those dollars been used. The tentative ruling is to set a deadline of 2/12/19 (if this case is not dismissed) for Ms. Chung to file a declaration, with attached evidence, addressing each of these things.

(c) Employment of bankruptcy counsel (dkt. 47, 51, 56, 67, 68, 71)

Have the objections of the United States Trustee (dkt. 51) been resolved?

(c) Motion to Extend Exclusivity Periods (dkt. 73)

Debtor is directed to addressing the issues raised by First Choice Bank's Opposition (dkt. 78).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Debtor's status report (dkt. 72) attempts to put the best face on a dismal record of recent operations. Should this Court set deadlines to sell the

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estate's property/business, or impose other performance metrics and establish consequences for failure to satisfy those metrics?

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

[OMITTED]

Tentative Ruling for 10/23/18:

[OMITTED]

Tentative Ruling for 10/17/18:

Appearances required.

(1) Current issues

(a) Payroll motion (dkt. 5). As noted in this Court's order setting this hearing (dkt. 10), this Court is concerned about whether this is a self-created emergency. In addition, the parties should be prepared to address the jobs of each person who is proposed to be paid (dkt. 7, Ex.6), whether any of them are "insiders" (11 U.S.C. 101(31)), and how they will be paid if the checks do not clear and other sources of revenue do not come through. Subject to adequately addressing those issues, and (1) confirming notice per this Court's order shortening time (dkt. 10), (2) addressing this Court's concerns in that

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order, and (3) any objections at the hearing, the tentative ruling is to grant this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt.4). The tentative ruling is to grant this motion, subject to the caveats set forth in the tentative ruling for calendar no. 2 (10/17/18 at 9:00 a.m.).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., *brief* status report due 11/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

Movant(s):

Bakers 26, LLC

Represented By
Jacob L Eaton

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2:19-16754 JDS Hospitality Group, LLC

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#13.00 Hrg re: Debtor's Emergency Motion for Order
Authorizing Use of Cash Collateral

Docket 27

Tentative Ruling:

Deny this motion for use of cash collateral (dkt. 27) - for the reasons stated in the response (dkt. 56) of Bakers 26, LLC ("Bakers"), and the additional reasons stated in connection with Bakers' motion for relief from the automatic stay (calendar no. 12) and Bakers' motion to dismiss (calendar no. 16) - (1) all subject to any oral argument, opposition, and reply at the hearing, per this Court's order shortening time (dkt. 32), and (2) with the **exception of payroll**, as to which the tentative ruling is to authorize Debtor to use cash collateral to the extent this Court adheres to its tentative ruling to authorize the payment of payroll (see calendar no. 15. Appearances required).

Proposed order: Bakers is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating this tentative ruling as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

To the limited extent that the tentative ruling is to approve the use of cash collateral, such use is subject to replacement liens and other standard conditions as provided below. The tentative ruling is to find and conclude that such limited relief is necessary to avoid immediate and irreparable harm to the bankruptcy estate, and to creditors whose chances of repayment depend on maintaining whatever going concern value Debtor has. See Rule 4001(b)(2), 6003(b) (Fed. R. Bankr. P.).

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of

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this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such

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liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

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(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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2:19-16754 JDS Hospitality Group, LLC

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#14.00 Hrg re: Debtor's Emergency Motion for Order (A) Prohibiting Utility Providers from Altering Refusing or Discontinuing Service, and (B) Establishing Procedures for Adequate Assurance of Payment Under Section 366 of the Bankruptcy Code

Docket 28

Tentative Ruling:

Deny this utility motion (dkt. 28) as moot, in view of the tentative rulings to grant relief from the automatic stand (calendar no. 12) and dismiss this bankruptcy case (calendar no. 16), all subject to oral argument including any opposition and reply, pursuant to this Court's order shortening time (dkt. 31). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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#15.00 Hrg re: Debtor's Emergency Motion for Order Authorizing Payment of Wages and Related Expenses

Docket 26

Tentative Ruling:

Grant this payroll motion (dkt. 26) in part and deny it in part as set forth below, all subject to oral argument including any opposition and reply, as authorized by this Court's order shortening time (dkt. 33). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The tentative ruling is to authorize the payment of the 6/14/19 payroll and benefits for non-insiders as set forth in Exhibit 1 to the motion (dkt. 26). The tentative ruling is to find and conclude that such relief is necessary to avoid immediate and irreparable harm to the bankruptcy estate, and to creditors whose chances of repayment depend on maintaining whatever going concern value Debtor has. See Rule 4001(b)(2), 6003(b) (Fed. R. Bankr. P.).

To the extent the motion seeks any other relief (e.g., payment of insiders), the tentative ruling is to deny such relief for lack of sufficient justification. See the tentative rulings on the motion of Bakers 26, LLC ("Bakers") for relief from the automatic stay (calendar no. 12) and to dismiss this case (calendar no. 16).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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2:19-16754 JDS Hospitality Group, LLC

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#16.00 Hrg re: Motion to Dismiss Chapter 11 Case

Docket 11

Tentative Ruling:

Appearances required.

(A) Dismiss this case under 11 U.S.C. 1112 and (B) impose a 180-day bar for willful failure to appear "in proper prosecution of the case" under 11 U.S.C. 109(g)(1). This Court has reviewed the opposition papers (dkt. 58), and this tentative ruling is subject to oral argument at the hearing. See Order Shortening Time (dkt. 17), p.3. The tentative ruling is to excuse any lack of strict compliance with the OST because notice and service have been adequate under the circumstances. See dkt. 23, 42, 43.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis

The tentative ruling is that the following alternative grounds exist for the relief sought in the motion papers. This Court is mindful of the fact that this matter is being heard on shortened time, early in this bankruptcy case. Nevertheless, on the present record, and subject to oral argument, the tentative ruling is to dismiss this case and impose a 180-day bar.

(1) Insurance ((b)(4)(C))

In Debtor's prior bankruptcy case (Case No. 2:18-bk-22059-NB), there was evidence that insurance was expiring on 5/25/19. See *id.* dkt. 138, at PDF p.17, para.27, and Ex.4 at PDF p.33 (filed 4/23/19). Debtor therefore not only should have foreseen the need to arrange in advance for new insurance, it was on actual notice, over a month in advance, that this could be a problem.

But there is evidence that Debtor's insurance was canceled effective 5/25/19 (as to its commercial package coverage) and 6/1/19 (as to excess

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liability) (dkt. 6-2, Ex.17, at pp.124-25). In this current bankruptcy case, Debtor asserts that as of 6/14/19 it has obtained insurance (see Debtor's Opp., dkt. 58, p.4:14-21). Notably absent is any denial by Debtor that it had a gap in insurance coverage from 5/25/19 through 6/14/19.

True, the current insurance coverage apparently was made retroactive to 5/25/19. See dkt. 58, R. Chung Delc., para.19 & Ex.3. But if any significant loss had occurred during the gap before replacement insurance was obtained, Debtor ran the (very substantial) risk of not being able to obtain any insurance coverage. That gap period extended after the petition date of 6/7/19 until 6/14/19 - *i.e.*, for a postpetition period of seven days.

This Court recognizes that Debtor filed this bankruptcy case on 6/7/19 because of the impending 6/10/19 foreclosure sale. But whatever pressures Debtor may have had, that does not excuse the lack of insurance.

The tentative ruling is that in a hotel with dozens if not hundreds of guests, fourteen days, including seven days postpetition, is a substantial period of time to go without insurance coverage. The tentative ruling is that such a gap in coverage imposes a substantial risk on the public and the estate, which is cause to dismiss. 11 U.S.C. 1112(b)(4)(C).

In addition, given the amount of notice that Debtor had of the need to address insurance, the tentative ruling is that Debtor's failure to obtain insurance and its decision to file this bankruptcy case without such insurance appears to be a willful failure to appear in "proper" prosecution of this case. To be clear, this Court's tentative ruling is not that Debtor would have elected to run the risk of not having insurance given a complete freedom of choice; but it appears that Debtor willfully elected not to take whatever steps were necessary to assure insurance until it turned out to be too late to avoid a gap in coverage. The tentative ruling is that this is willful failure to appear in proper prosecution of this case, which is cause to impose a 180-day bar. 11 U.S.C. 109(g)(1).

The foregoing tentative rulings are reinforced by Debtor's history in its prior bankruptcy case of not being proactive, or even adequately reactive, in managing the online bookings fiasco. That situation is summarized in the tentative rulings for that prior case (reproduced in this case within the tentative ruling for calendar no.12, 6/18/19 at 10:00 a.m.).

As in that situation (involving bookings), Debtor should have foreseen in this situation (involving insurance) the need to be proactive. Failing that, at the very least Debtor should have been adequately reactive once the issues

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had been flagged for Debtor. Insurance was flagged on 4/23/19, and in this Court's tentative ruling (later adopted as the final ruling) regarding dismissal of the prior bankruptcy case. See Case No. 2:18-bk-22059-NB, dkt. 138 (at PDF p.17, para.27, and Ex.4 at PDF p.33) and dkt. 156 (dismissal order). Debtor has not offered any explanation for being unable to maintain insurance despite such notice.

(2) Gross mismanagement ((b)(4)(B))

The tentative ruling is that Debtor's handling of the insurance matter (described above) is sufficient to establish a *prima facie* showing of gross mismanagement. That shifted the burden to Debtor to rebut that showing, but Debtor has not done so.

In addition, the tentative ruling is that Bakers has submitted sufficient evidence that (a) the property has physically been allowed to fall into a state of disrepair, (b) Debtor's reservation system is subject to (unspecified) restrictions, and (c) Debtor's exit strategy continues to be vague and uncertain. That shifts the burden to Debtor to overcome the appearance that there is gross mismanagement.

Debtor argues that Bakers' evidence of the dilapidated state of the property is "stale," that Debtor's physical condition has been improving, that its projected revenues are healthy, and that it has prospective buyers and a prospective investor. This Court has heard that story before from this Debtor.

(a) Physical condition of the property

Although this Court recognizes that the pool, hot tub, and other aspects of the property might not be as bad as suggested in the report prepared for Bakers (see dkt.57), there is still substantial evidence of dangerous conditions and deferred maintenance (see dkt. 6-4, Ex.22, at pp.211-74, and the additional photographs, *id.*, Ex.23, at pp.275-77). Debtor's opposition papers do not include any specific information about what Debtor is doing to address these issues.

Debtor provides only vague and sweeping assertions that the property was allowed by previous owners to fall into a bad state and that Debtor has been improving the property. Such assertions appear to be contrary to the only evidence before this Court of Debtor's past expenditures: its monthly operating reports from its prior case, which do not appear to reflect any restoration of the property and, if anything, appear to be more consistent with ongoing deterioration.

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(b) Reservation systems

There is evidence that Debtor's use of the Days Inn reservation system is restricted. Debtor provides no information about the nature of that restriction, how much impact that is having on Debtor's ability to generate revenues, what is being done to address the issue, or any other facts and circumstances.

This Court would expect capable and proactive management to present detailed information on these issues, to have strategies and tactics to address all of those things, to support their analysis and proposed approaches with evidence, and to present all of that to this Court as part of some "first day" motions (e.g., use of cash collateral to help remove some or all restrictions). Instead there is barely any recognition of the problem.

This is reminiscent of Debtor's fiasco with its online reservation systems (Expedia and Bookings.com) in its prior bankruptcy case, in which Debtor never provided any satisfactory explanation for failing to foresee the problem, failing to recognize it once it arose, or failing to act quickly and decisively enough once the problem was recognized. See the tentative ruling for Bakers' R/S Motion, calendar no. 12 on this 10:00 a.m. calendar for 6/18/19).

In this case Debtor reports vaguely that it is "working to resolve the [unspecified] restriction on its reservation system with Days Inn." Dkt. 57, Response to Bakers' R/S Motion, p.3, para. 3.c.(6). The tentative ruling is that the scant information is itself evidence of gross mismanagement.

(c) Debtor's vacillating and vague exit strategy

In the prior case Debtor repeatedly vacillated between purported sales opportunities and equity investment opportunities, but never produced evidence of any solid exit strategy. See, e.g., Bakers' Response re Cash Collateral (dkt. 56), pp.2:15-3:14 (citing and quoting from Debtor's vacillating statements). In this case Debtor has provided copies of two letters of intent ("LOI"), but the tentative ruling is that they are unconvincing.

The first LOI is for \$6.1 million, but it is dated 2/12/19 (dkt. 58, R. Chung Decl., Ex.1, at PDF pp.18-21); it required Debtor's signature by 2/19/19 (*id.* para.10) and in any event it was subject to a 45 day investigation period (*id.* para.3) which has long since expired. The second LOI is for \$5.1 million and is dated 3/29/19 (*id.*, Ex.2, at PDF pp.22-25); and it required Debtor's signature by 4/5/19 (*id.* para.10) which has long since expired.

(d) Lack of evidence of steps to improve cash flow

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Despite Debtor's (unspecified) restrictions in use of the Days Inn reservation system, and despite the apparent lack of physical improvement in the property, Debtor's cash collateral motion includes relatively rosy projections of future cash flow. As Bakers argues (dkt. 11, 56), Debtor made rosy projections in its first bankruptcy case but ended up losing a substantial amount of money.

Debtor's projected income is just a series of seemingly random figures. Debtor offers no evidentiary support, and no explanation for any change from the first bankruptcy case except the vague assertion that Debtor's summer season will be busier.

In the prior bankruptcy case Debtor repeatedly anticipated better performance, including in the busier winter holiday season. Instead its performance was extremely bad. See tentative rulings from prior bankruptcy case, reproduced in tentative ruling for calendar no.12 (Bakers' R/S Motion).

Debtor's projected expenses also raise concerns (although at least they are listed and Debtor shows the calculation of projected net income). One problem is that the expenses appear to be reduced from what would be typical. Debtor omits any property taxes because those "are typically paid in April and December" and the cash collateral budget runs from June through November, 2019. See Cash Collateral Budget (dkt. 27, Ex.1). If the budget included such taxes, estimated by Debtor at \$30,000 (*id.*), Debtor's projected budget would be extremely "thin."

Debtor's insurance expense also appears to be lower than what Debtor typically would pay if its annual expenses were spread out evenly over 12 months. Debtor appears to have obtained insurance pursuant to California's "FAIR" program, with an initial payment of \$25,356.50 (see dkt. 58, R. Chung Decl., Ex.3, last page, at PDF p.34) - presumably either prepetition or from a non-Debtor source because no authorization was sought for such an expenditure. That insurance requires ongoing payments of \$6,250.00 per month (Cash Collateral Motion, dkt. 27, Ex.1). It is unclear whether Debtor can continue to afford such insurance. See *also* dkt. 56, p.4:9-23 (arguing that if Debtor has obtained insurance through the "FAIR" program - insurance of last resort - that is further evidence of Debtor's troubled condition).

The tentative ruling is that all of the foregoing adds up to present a picture that is very reminiscent of Debtor's first bankruptcy case. Debtor is making vague promises regarding (a) the physical condition of the property, (b) somehow addressing the restrictions in its use of the Days Inn reservation

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system, (c) some sort of exit strategy that might involve a sale or an equity investment, and (d) somehow increasing monthly gross income and minimizing monthly expenses, but there is a glaring absence of actual evidence and analysis of data to back up any of this.

In addition, as noted in the tentative ruling on Bakers' R/S motion (calendar no. 12, on this 10:00 a.m. calendar on 6/18/19), Debtor has failed to be proactive in obtaining authorization from this Court or payment of payroll on 6/14/19, or for the use of cash collateral, or other matters.

The tentative ruling is that Debtor's lack of proactive steps and evidence on all of the foregoing shows gross mismanagement within the meaning of 11 U.S.C. 1112(b)(4)(B).

(3) Loss/diminution and no reasonable prospects for rehabilitation ((b)(4)(A))

On the one hand, this Court is not currently persuaded that "rehabilitation," within the meaning of 11 U.S.C. 1112(b)(4)(A), can never include a process of "staunching the bleeding" in preparation for an orderly liquidation, even if that process involves substantial or continuing losses or a "diminution to the estate," as long as that process is calculated to preserve more value for creditors than other alternatives. The tentative ruling is that this can constitute a "rehabilitation" in preparation for a sale or other liquidation.

For example, if a hypothetical debtor were to diminish a \$1 million estate by spending \$100,000, but that would stabilize the estate at a value of \$900,000, and the alternatives would be a foreclosure sale or "fire sale" that would cause the estate to be worth only \$800,000, then the hypothetical debtor's expenditure of the \$100,000 to stabilize the estate could, in this Court's view, constitute a "rehabilitation." In other words, this Court is not persuaded that the statute would force this Court to convert or dismiss the case in such a situation, thereby harming creditors. To the extent the motion papers argue otherwise this Court is not persuaded. See Motion (dkt. 11) p.8:13-25 (citing *Loop Corp. v. U.S. Trustee*, 379 F.3d 511, 516 (8th Cir. 2004), and *In re The Ledges Apts.*, 58 B.R. 84, 87 (Bankr. D.Vt. 1986)).

But on the present record there is no evidence that Debtor's prosecution of this case is likely to preserve more value for creditors than other alternatives. To the contrary, the decision to file this bankruptcy case and thereby stop the movant's foreclosure sale appears to have obstructed the best opportunity for someone (Movant, or another buyer at a foreclosure

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sale) to take charge of the subject property and immediately invest the funds and expertise needed to bring the property into a condition in which it could be safe and preserve its current value. Therefore the tentative ruling is that there is cause to dismiss this case under 11 U.S.C. 1112(b)(4)(A).

(4) Other "cause" to dismiss ((b)(1))

The tentative ruling is that there is persuasive evidence of non-payment of adequate protection payments and taxes in the first case, in violation of this Court's orders and Debtor's obligations under the Bankruptcy Code and, although that is not the same as such acts in this case (11 U.S.C. 1112(b)(4)(D),(E)&(I)), nevertheless it places a high premium on Debtor showing a different course of conduct in this second bankruptcy case. But the tentative ruling is that all of the matters addressed in this tentative ruling and in the tentative ruling for calendar no.12 are *prima facie* evidence that this case was not filed in good faith.

The tentative ruling is that such conduct establishes "cause" to dismiss this case within the meaning of 11 U.S.C. 1112(b)(1). See 11 U.S.C. 102(3) ("includes" and "including" are not limiting). In addition, the tentative ruling is that such conduct establishes a willful failure to appear in "proper" prosecution of this case within the meaning of 11 U.S.C. 109(g)(1) (emphasis added).

(5) Conclusion

The tentative ruling is that Movant has shown *prima facie* cause to dismiss this case and to impose a 180-day bar against being a debtor in any future bankruptcy case. The tentative ruling is that Debtor has not rebutted that showing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

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Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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2:18-25065 Henry Hossein Nahidi

Chapter 13

Adv#: 2:19-01108 Nahidi v. Mkrchyan et al

- #1.00** Status conference re: Complaint for 1) Violation of California High Cost Mortgage law; 2) Violation of TILA; 3) Violation of HOEPA; 4) Violation of California Civil Code section 1632; 5) Unconscionability (Civil code section 1688 et. seq); 6) Intentional misrepresentation; 7) Fraud; 8) Unfair Business Practices; 9) Declaratory Relief

Docket 1

***** VACATED *** REASON: Main case orally dismissed, and forthcoming order dismisses this adversary proceeding.**

Tentative Ruling:

Party Information

Debtor(s):

Henry Hossein Nahidi

Represented By
Stella A Havkin

Defendant(s):

Greg Mkrchyan	Pro Se
Garik Mkrchyan	Pro Se
Ghegham Ter-Mikrtchyan	Pro Se
Serzsigh Danoukh	Pro Se
Armen Kazangian	Pro Se
Henrik Avanesian	Pro Se
Allied Lending Group, Inc.	Pro Se
Robert Franklin	Pro Se
James Moore	Pro Se
KB Holdings and Investments, LLC	Pro Se

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Chapter 13

Plaintiff(s):

Hossein Henry Nahidi

Represented By
Stella A Havkin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-22660 Yuichiro Sakurai

Chapter 11

Adv#: 2:19-01112 Fresco International Corporation et al v. Sakurai et al

**#2.00 [Notice of voluntary dismissal pursuant to FRBP 7041(a)
filed on 6/11/19]**

Status Conference re: Complaint to Confer Disbursing Agent
With Authority, Pursuant to Bankruptcy Rule 7070, to Take
Possession and Act in the Name of Debtors as Needed to Liquidate
the Debtors' Assets in Compliance with the Confirmed Plan of Reorganization

Docket 1

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar
no. 3, 6/18/19 at 11:00 a.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Defendant(s):

Yuichiro Sakurai

Pro Se

Akemi Sakurai

Pro Se

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

Plaintiff(s):

Fresco International Corporation

Represented By
Carol Chow

Tsuneo Hisanaga

Represented By
Carol Chow

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#3.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19, 5/7/19, 5/21/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/18/19

Continue status conferences in the underlying bankruptcy cases (*Sakurai* and *Checkmate*) to 7/2/19 at 2:00 p.m. because Plaintiff has filed Notices of Voluntary Dismissal in both Adversary Proceedings (adv. 19-1112 dkt. 5; adv. 19-1113 dkt 5). Therefore, status conferences in the adversary proceedings are moot. Appearances are not required on 6/18/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 5/7/19:

Appearances are not required

(1) Current Issues

(a) Motion to Withdraw as Bankruptcy Counsel (*Sakurai* dkt. 418)
Grant.

(b) Motion to Withdraw as Bankruptcy Counsel (*Checkmate* dkt. 294)

This Court has sought to assure that Debtor and its principal(s) receive

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proper notice of the motion by its counsel, Mr. Aronson and/or his firm (collectively, "Aronson"), to withdrawal from representing Debtor in this bankruptcy case. Such notice would be important in any bankruptcy case. It is especially important in this situation, because (i) Debtor is not an individual so it is prohibited from appearing without counsel and (ii) there are pending sanctions proceedings against Debtor's principal(s) - Mr. Sakurai (and, possibly, Ms. Sakurai), and Debtor's lack of legal counsel might adversely effect them in those proceedings.

Proper notice is also important for another reason. It protects Aronson in the event that Debtor later asserts that it did not consent to Aronson's withdrawal, and was not properly served.

But Aronson has not complied with this Court's order directing service and setting this hearing (the "Hearing Order"). First, Aronson did not serve Debtor in accordance with Rule 7004(b)(3). Second, he did not serve Debtor or its principal(s) timely.

As the Hearing Order previously explained:

The Withdrawal Motion was not served on Debtor in accordance with Rule 7004(b)(3) (Fed. R. Bankr. P.), which requires service on a corporation to be to the attention of an Officer (or other agent authorized to accept service of process). [Dkt. 296, p.1:26-28]

(As the above-quoted language recognizes, service can be made on an agent for service of process, but there are separate problems, described below, with any reliance on that alternative.)

The Hearing Order ordered Mr. Aronson to serve Debtor in compliance with Rule 7004:

Aronson is directed no later than April 25, 2019, to serve the Motion and a copy of this Order, and file a proof of service, all in accordance with Fed. R. Bankr. P. 7004 [Dkt. 296, p.2:24-26 (emphasis added)]

Mr. Aronson did not serve these papers until sometime on Tuesday 4/30/19. It is not clear whether service was before or after the U.S. mail pickup time: the proof of service was not filed until 6:30 p.m. See dkt. 301 at PDF pp. 23-24. So this Court cannot presume mail pickup before Wednesday May 1. Then, adding three days for service by mail (per Rule 9006(f), Fed.R.Bankr.P.), this Court cannot presume delivery before Saturday May 4. Next, this Court cannot presume that business mail delivered on a Saturday is necessarily picked up and read prior to a normal business day -

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this Court takes judicial notice that the Sakurais have a mailing address that is different from their street address; and this Court takes judicial notice that Debtor's agent for service of process might require a business day or more to forward mail to Debtor. In sum, it appears that this Court cannot presume service prior to sometime on Monday May 6, 2019.

The Hearing Order set May 6 as the deadline for Debtor or Mr. and Ms. Sakurai to file and serve any written response to Aronson's motion to withdraw, and set the hearing for May 7. In other words, Debtor and its principal(s) had essentially no notice of their deadline to respond to the motion to withdraw, and perhaps less than 24 hours' notice of the hearing. Although shortened notice is permissible upon a sufficient showing (Rule 9006, Fed. R. Bankr. P.), no showing has been made for such exceptionally shortened notice.

Mr. Aronson declares (dkt. 302, p.1, para.6) that he had a telephone conversation with Debtor's principal, Mr. Sakurai, and obtained oral assurances that Aronson could email Mr. Sakurai. That is insufficient. See Rule 5(b)(2)(E) (Fed. R. Civ. P., incorporated by Rule 7005 & 9014(b), Fed. R. Bankr. P.) (requiring consent to electronic service "in writing"). Moreover, given the possible effects on Debtor's principal(s) - e.g., derivative claims by Debtor against Mr. and/or Mrs. Sakurai - it seems appropriate to assure service on both of them; but Mr. Aronson's declaration only asserts that oral and email notice was given to Mr. Sakuria.

Why was it impossible for Mr. Aronson, while he was out of his office, to arrange for service via U.S. mail by his staff or a colleague on 4/25/19, or failing that then the next day? If that was not possible, why did he not serve his client via overnight delivery on 4/30/19, instead of via U.S. mail?

In sum, Mr. Aronson's efforts to comply with this Court's Hearing Order appear to be inadequate. The tentative ruling is to continue the hearing on Aronson's motion to withdraw to the same time as the continued status conferences (see below), with **a new deadline of 5/17/19 for any response** by Debtor and/or Mr. or Ms. Sakurai, and with a direction to Aronson, **no later than 5/8/19**, to serve a notice of the continued hearing, and a copy of this tentative ruling, on each of those persons at all of their known addresses via **overnight mail** (except for service in Japan via regular U.S. airmail), all in full compliance with Rule 7004 (Fed. R. Bankr. P.).

Proposed orders: Movants are directed to lodge proposed orders via LOU

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within 7 days after the hearing date. See LBR 9021-1(b)(1)(B). Aronson is directed to attach a copy of this tentative ruling for 5/7/19.

- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).
 - (c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases): 5/21/19 at 2:00 p.m. (no written status report required).
 - (d) Continued adversary proceeding status conference (Radiology/Fower): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

Tentative Ruling for 4/30/19:
Appearances are not required.

(1) Current Issues

(a) Implementation of the Plan; OSC (Sakurai dkt. 386), OSC Supp. (id. dkt. 399), and Sanctions Order (id. dkt. 407).

Based on the Debtors' Status Report (Sakurai dkt. 417), Debtors have failed to comply with the OSC, OSC Supp. and Sanctions Order. In addition, it appears that Debtors are refusing to sell the Las Vegas Property.

Based on the supplemental evidence (Sakurai dkt. 408), the tentative ruling is to award the Fresco Parties \$10,371.50 in attorneys fees as compensatory sanctions (without prejudice to seeking additional amounts in future). In addition, the tentative ruling is to increase coercive sanctions to \$200.00 per day against Debtors until they comply with this Court's prior orders.

Proposed orders: The Fresco Parties are directed to lodge proposed orders (one awarding interim compensatory sanctions, and one increasing the coercive sanctions) via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 4/30/19, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

- (2) Deadlines/dates. This case was filed on 10/16/17.

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- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
- (b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).
- (c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases): 5/7/19 at 2:00 p.m. (no written status report required), to be concurrent with the motions of Debtors' counsel to withdraw.
- (d) Continued adversary proceeding status conference (*Radiology/Fower*): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 4/9/19:
Appearances Required**

(1) Current Issues

(a) Implementation of the Plan; Order to Show Cause ("OSC," dkt. 386), and supplemental order ("OSC Supp," dkt. 399)

Debtors have not responded to the OSC (dkt. 386) or the OSC Supp (dkt. 399). The Fresco Parties have responded with a supplemental brief (dkt. 403) pointing out that this Court cannot appoint a chapter 11 trustee, but also recapping the disadvantages of conversion to chapter 7, and suggesting instead that (i) this Court should sanction Debtors, (ii) this Court should replace the current disbursing agent under the confirmed Plan, Mr. Aronson, with a new disbursing agent (the mechanism to choose such a person is not discussed), and (iii) this Court should vest that person with the power to execute documents to implement the Plan pursuant to 11 U.S.C. 1142(b):

1142. Implementation of plan

* * *

(b) The court may direct the debtor and any other necessary party to execute or deliver or to join in the execution or delivery of

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any instrument required to effect a transfer of property dealt with by a confirmed plan, and to perform any other act, including the satisfaction of any lien, that is necessary for the consummation of the plan.

The tentative ruling is to find that the individual Debtors are in contempt of court for each of the reasons stated in the OSC and the OSC Supp, and to award the compensatory, coercive, and punitive sanctions set forth below. As for issuing order(s) replacing the disbursing agent and vesting some person with power to execute documents and do other things necessary or appropriate to implement the Plan, this Court is concerned that such orders might exceed the scope of authority under section 1142(b), but similar relief might be available using other mechanisms, perhaps only after commencing an adversary proceeding or perhaps not, under Rules 70 and 71 (Fed. R. Civ. P., incorporated by Rules 7001(7), 7070, 7071, and 9014(c), Fed. R. Bankr. P.). The parties are directed to address these issues at the hearing.

As for sanctions, the tentative ruling is to set a deadline of 4/14/19 for the Fresco Parties to file and serve their declaration(s) with attached timesheets, a deadline of 4/23/19 for Debtors and the U.S. Trustee to file and serve any responses, and any reply may be presented orally at the continued hearing. In addition, the tentative ruling is to impose coercive sanctions, payable to the Court, starting at \$100 per day and continuing until Debtors comply with all of their obligations set forth in the OSC and the OSC Supp, all subject to being increased or otherwise adjusted at the continued hearing. In addition, the tentative ruling is to impose punitive sanctions of \$2,500, payable to this Court, also subject to adjustment in future (either by this Court or by the District Court if punitive sanctions or other issues are before the District Court - because of the limitations on this Bankruptcy Court's ability to award any punitive sanctions, it may be necessary for the District Court to address that issue, which might be accomplished by a recommendation from this Court for withdrawal of the reference, perhaps only for that limited purpose, or which might be based on proposed findings of fact and conclusions of law by this Court, or any other mechanism that is appropriate). See *In re Dyer*, 322 F.3d 1178, 1195 (9th Cir. 2003); see also *In re Count Liberty, LLC*, 370 B.R. 259, 274 (Bankr. C.D. Cal. 2007).

The continued hearing on the OSC and the OSC Supp will be concurrent with the continued status conference set forth below.

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(b) Coordination with Japanese authorities

This Court intends to address briefly with the parties what methods may be appropriate to request and obtain the assistance of any authorities in Japan in enforcing the terms of the Plan and this Court's orders. This Court may set a briefing schedule to address those things.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

(c) Continued post-confirmation status conference (in the Sakurai and Checkmate cases): 4/30/19 at 2:00 p.m. (status report due 4/23/19).

(d) Continued adversary proceeding status conference (Radiology/Fower): 5/21/19 at 2:00 p.m. (as ordered at the hearing on 3/26/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances Required

(1) Current Issues

(a) Order to Show Cause ("OSC," dkt. 386)

The parties should be prepared to address the issues raised by the OSC (dkt. 386), the motion for the OSC (dkt. 384), the status report (dkt. 390), the declaration of the Sakurais' counsel Mr. Gebelt (dkt. 391), and the reply of the Fresco Parties (dkt. 392).

2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

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(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 4/30/19 at 2:00 p.m. (status report due 4/23/19).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 1/15/19:

Appearances Required

(1) Current Issues

(a) Final Fee Application for Debtor's Counsel (*Checkmate*, dkt. 249, 250, 253, 255, 257, 258, 261, 264; and *Sakurai*, dkt. 343, 346, 352, 355, 356, 363, 367)

The applications seek \$350,846.10 (*Checkmate*) and \$118,796.75 (*Sakurai*). This Court has allowed a total of \$300,000, and set this continued hearing to address the balance of \$169,642.85. See Interim Fee Orders (dkt. 261, *Checkmate*; dkt. 363, *Sakurai*).

The Fresco parties' objections note that this Court has on more than one occasion expressed grave concerns about whether these Debtors have adequately prosecuted these bankruptcy cases. Of course, this Court expects that counsel for the debtors would not in any way have participated in any attempts by these Debtors to mislead or obstruct creditors in these cases, but that is not the end of the inquiry.

On the one hand, when there are legitimate strategic or tactical reasons to chose among different courses of action, counsel for Debtors usually must act at their clients' direction, even if they might harbor some doubts about the efficacy of those choices. On the other hand, in addition to the ethical limits of what counsel may do at their clients' direction, counsel are only permitted "reasonable compensation for actual, necessary services" (11 U.S.C. 330(a)(1)(A) (emphasis added)), and in determining what

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compensation is reasonable this Court "shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including [among other things] whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, [these bankruptcy cases]."

In these cases there are open questions about (i) Debtors' own acts and omissions, and whether Debtors were or were not engaging in a lack of diligent prosecution of these cases or other misconduct, (ii) whether Debtors, if deposed or examined at trial on those issues, will or will not assert advice of counsel, and (iii) whether, regardless of the foregoing issues, counsel for Debtors can satisfy the above-referenced statutory requirements. For all of these reasons, the tentative ruling is that the Fresco parties must have a reasonable period of time in which to conduct discovery to investigate Debtors' apparent failures to prosecute these cases or other misconduct, and whether, in view of the results of any such discovery, the compensation sought by counsel for Debtors is for "necessary" services and is "reasonable" in dollar amount, given all of the facts and circumstances.

Meanwhile, although this Court recognizes that all interim compensation may be revisited in connection with any final award, the question is how much to award on an interim basis, and whether any disbursed funds must be held in trust. The tentative ruling is to award another \$35,000 to counsel for Debtors, to be allocated pro rata in proportion to their outstanding fee requests, without requiring any portion of those funds to be held in trust, but also without prejudice to allowance of a greater or lesser final award.

The parties should be prepared to address the schedule for discovery on the issues outlined above. The tentative ruling is that a five month period is appropriate.

Then, in connection with any final fee award, or at such other time as this Court may later determine, the Fresco parties' objections can be revisited with the benefit of both (i) any discovery and (ii) any subsequent developments. For example, any additional disclosures and/or recoveries in the Fower/Radiology litigation might shed light on whether Debtors' and their counsel's strategies and tactics in dealing with those parties were appropriate at the time they were made. (This Court emphasizes that any subsequent developments would be relevant only to the extent they shed light on what was reasonable at the time the legal services were rendered - not for

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CONT... **Yuichiro Sakurai and Akemi Sakurai**
purposes of "20/20 hindsight.")

Chapter 11

- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.
 - (c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 3/26/19 at 2:00 p.m. (status report due 3/19/19).
- *Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

This Court anticipates posting a tentative ruling at a later time.

**Tentative Rulings for 10/26/17 through 1/8/19:
[OMITTED FOR BREVITY]**

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:17-22648 Checkmate King Co., LTD

Chapter 11

Adv#: 2:19-01113 Fresco International Corporation et al v. Checkmate King Co., LTD

**#4.00 [Notice of voluntary dismissal pursuant to FRBP 7041(a)
filed on 6/11/19]**

Status Conference re: Complaint to Confer Disbursing Agent with Authority, Pursuant to Bankruptcy Rule 7070, to Take Possession and Act in the Name of Debtors as Needed to Liquidate the Debtors' Assets in Compliance with the Confirmed Plan of Reorganization

Docket 1

Tentative Ruling:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 6/18/19 at 11:00 a.m.).

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

Defendant(s):

Checkmate King Co., LTD

Pro Se

Plaintiff(s):

Fresco International Corporation

Represented By
Carol Chow

Tsuneo Hisanaga

Represented By
Carol Chow

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#5.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19, 5/7/19, 5/21/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 6/18/19 at 11:00 a.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.4, 4/30/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

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CONT... Checkmate King Co., LTD

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Please see the tentative ruling for the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

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Chapter 11

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.

(c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... Checkmate King Co., LTD

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:
Appearances required.

(1) Current issues.

(a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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CONT... Checkmate King Co., LTD

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appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be

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prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and

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related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on a final basis.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status

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CONT... Checkmate King Co., LTD
conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#1.00 Hrg re: Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement and Gaining Acceptance of a Plan of Reorganization, and Extending Debtors Period to Assume or Reject Unexpired Leases of Non-Residential Real Property

Docket 239

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See # 6 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19

Docket 1

*** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See # 8 at 2:00 p.m.

Tentative Ruling:

Tentative Ruling for 6/4/19:
Appearances required.

(1) Current issues

(a) Application to employ real estate broker (dkt. 164)

Subject to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property (see Cathay Bank Obj., dkt. 243, at pp.6:25-7:6), the tentative ruling is to grant the application to employ real estate broker. The tentative ruling is to overrule Cathay Bank's other objections.

(i) Alleged lack of disinterestedness

Although Cathay Bank's supplemental opposition (dkt. 243) argues that the proposed broker, Standard Mortgage, Inc. dba Standard Realty ("Broker") is not "disinterested," and therefore is not eligible for employment under 11 U.S.C. 327(a), the tentative ruling is that this objection is not persuasive. True, an independent contractor with Broker, Mr. Akbari (who previously stated that he was an "employee" of Broker), is married to the sister of the wife of one of Debtor's officers/control persons. Cathay Bank cites authority that, under California law, being a brother-in-law is equivalent to being a brother, so the tentative ruling is that Mr. Akbari is a "relative" of an "officer" or "person in control" of Debtor and therefore he is an "insider." See 11 U.S.C. 101(45) (a "relative" means an "individual related by affinity or consanguinity within the third degree as determined by the common law"); 101(31)(B)(vi) (insider includes a "relative of a ... officer, or person in control of the debtor"). But that does not mean that Broker is an insider.

It also appears to be true that Debtor has not been as forthcoming with

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Chapter 11

the connections between Broker and Debtor as would have been advisable, including both the familial relationships noted above and the recent discovery that Mr. Akbari "was the listing agent on the Cabrillo Street Property (during the *nunc pro tunc* timeframe in which the Broker is sought to be employed)" Cathay Bank Obj. dkt. 243, p.3:4-6 & Warrington Decl., Ex.1. Finally, as noted in the tentative ruling for 5/21/19, part (1)(b) (reproduced below), the statutory list of insiders "includes" but is not limited to the listed examples (see 11 U.S.C. 102(3)) and in addition this Court notes that a professional must be not only "disinterested" but also must not "hold or represent an interest adverse to the estate." 11 U.S.C. 327(a).

But the tentative ruling is that the facts recited above do not disqualify Broker from employment. A different real estate agent will be handling this matter (Mr. Ahmadi, dkt. 234); there is no evidence that Mr. Ahmadi or Broker itself has any incentive to act in any way adverse to the bankruptcy estate; and the failures to provide disclosure of every arguable "connection" between Broker and Debtor (within the meaning of Rule 2014, Fed. R. Bankr. P.) is unfortunate but understandable given the attenuated nature of the connections (Debtor's officer's wife's sister's husband originally was the listing agent for Broker on one of the four properties to be sold).

(ii) Alleged issues with 4.5% commission

Cathay Bank argues that Debtor has failed to justify a 4.5% commission; but to the contrary, the tentative ruling is that in general this Court should give deference to Debtor's business judgment, and that even without such deference Debtor has provided sufficient evidence that a 4.5% commission is appropriate (see dkt. 234) (Declaration regarding typical commission for commercial properties being 4-6%, and for residential properties 5-6%). Cathay Bank has provided no evidence to the contrary. Nor has Cathay Bank cited authority that Debtors are required to "shop around" for the lowest commission (which might not be the best broker) prior to selecting a broker, especially given that the proposed Broker has agreed to a slightly reduced commission from what is typical (see *id.* at 3).

(iii) Alleged lack of qualifications re industrial property

The tentative ruling is that although there may be conceptual differences between "industrial" and "commercial" properties, Cathay Bank has not established that any such difference is meaningful in the context of this case and the properties at issue.

(iv) Conclusion as to Broker

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The tentative ruling is to grant the application and authorize Broker's employment subject, again, to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property. See Cathay Bank Obj., dkt. 243, at pp.6:25-7:6.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/18/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Debtor's counsel's fee application (dkt. 175, 177)

Allow \$145,683.50 in fees and \$5,714.10 in expenses for a total of \$151,397.50, and authorize draw down of the retainer (\$124,846.70 remaining), with the balance of the fees and expenses to paid from the estate.

Cathay Bank's response (dkt. 207) does not object to allowance of the fees but seeks to reserve all rights it might have regarding a purported lien on

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some of the retainer. Debtor's reply (dkt. 215) asserts that the bank has no such rights to reserve because it has been given a replacement lien on the real estate.

This Court's recollection is that the bank did not entirely waive such rights at the hearing on 5/7/19, but did indicate that it was no more going to seek disgorgement from Debtor's firm (of authorized postpetition distributions from the retainer account) than it would seek disgorgement from one of Debtor's utilities (of authorized postpetition utility payments). In any event, whatever the parties' interpretations of the representations on 5/7/19, the issue is too remote for either party to be expending any substantial attorney fees on it at this time.

Cathay Bank has its security interest in the accounts receivable that existed as of the petition date, and it has replacement liens in ongoing accounts receivable. Debtor believes the bank will be paid in full out of those things. But as adequate protection (11 U.S.C. 361, 363(e) & 552(b)) the bank has replacement liens in Debtor's real estate - to cover both (i) any diminution in the value of its security interest in the accounts receivable as of the petition date and (ii) any diminution in the value of its purported security interest in the retainer as of the petition date. Therefore the bank's and Debtor's rights are both reserved, and neither party should be spending much time on this issue. Any attorney fees spent arguing about this issue are subject to this Court's review for reasonableness (under 11 U.S.C. 330 and 331 for Debtor's counsel, and under 11 U.S.C. 506(b) for Cathay Bank's counsel).

(b) Application to employ real estate broker (dkt. 164)

The tentative ruling is, with one exception, to overrule the objection of Cathay Bank (dkt. 199), based on Debtor's reply (dkt. 214). The exception is that, although Debtor has presented evidence of the reasonableness of the broker's proposed commission and experience, and this Court generally should defer to Debtor's business judgment, Cathay Bank makes a good point that the real estate at issue ranges broadly from a single family residence to commercial property etc., and there is insufficient evidence of the proposed broker's specific experience as to each type of real estate. The tentative ruling is to set a **deadline of 5/24/19** for Debtor to file and serve a supplemental declaration detailing such experience, with a **deadline of 5/29/19** for any supplemental objection by Cathay Bank, and a continued hearing (if there is any such objection) concurrent with the continued status

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conference (see below).

As for disinterestedness (11 U.S.C. 101(14), 327(a)), Cathay Bank argues that the broker is not disinterested because, from the information on the docket, it appears that one of its alleged employees (Mr. Akbari) is a relative by marriage of one of Debtor's principals, and the principals are beneficiaries of a trust that engaged in prepetition transactions with Debtor that, according to the bank, violated Debtor's covenants with the bank. On the one hand, it is true that Mr. Akbari previously declared that he was "employed" by the broker (dkt. 77, p.1:22).

On the other hand, this Court interprets that as an (unfortunately) imprecise description of his arrangement as an independent contractor. Alternatively, even if he is an employee, this Court is not persuaded that this disqualifies the broker from employment by the estate.

Mr. Akbari apparently is married to the sister of the wife of one of Debtor's officers/control persons. The tentative ruling is that this makes him related "by affinity or consanguinity" within the fourth degree (1.officer - 2.spouse - 3.sister of spouse - 4.Mr. Akbari), so he is not a "relative" within the meaning of 11 U.S.C. 101(45) and therefore he is not an "insider" within the meaning of 11 U.S.C. 101(31)(B)(vi) or (E). That is not dispositive, because, the statutory list of insiders "includes" but is not limited to the listed examples. See 11 U.S.C. 102(3). But the tentative ruling is that the connection has been sufficiently disclosed (Rule 2014, Fed. R. Bankr. P.) and is not disqualifying.

In practical terms, this Court does not perceive that any alleged ties between the proposed real estate broker and Debtor's principal creates any incentive to lessen the price obtained for the real estate, or otherwise prejudice the interests of the bankruptcy estate. Accordingly, the tentative ruling is to approve the employment, subject to satisfactory supplemental evidence as set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: The tentative ruling is to vacate any deadline to file a proposed plan and disclosure statement, given the current posture of this case.

(c) Continued status conference: 6/4/19 at 2:00 p.m., no status report required.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 5/7/19:
Appearances required.**

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash

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collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week without further authorization of this Court. (To be clear: if Debtor in its business judgment believes that it must incur more than that amount of professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

(c) Cathay Bank's adequate protection: replacement liens v. cash payments

The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this

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Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

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(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate delcaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are

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also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals

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(11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the

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consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be

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addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.*, were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See

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(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

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2:15-28443 Cloudbreak Entertainment, Inc.

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#3.00 Hrg re: Third Application of Pachulski Stang Ziehl & Jones LLP
for Allowance and Payment of Interim Compensation and
Reimbursement of Expenses (October 1, 2017 - March 31, 2019)

Docket 485

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5,
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Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-28443 Cloudbreak Entertainment, Inc.

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#4.00 Hrg re: Third Application of Gordon Fishburn & Major LLP d/b/a The Brentwood Management Group as Business Management Consultant for Allowance and Payment of Interim Compensation and Reimbursement of Expenses (October 1, 2017 - March 31, 2019)

Docket 486

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 1:00 p.m.)

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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Hearing Room 1545

1:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16,
9/6/16, 11/29/16, 12/13/16, 02/28/17, 4/25/17,
5/23/17, 7/11/17, 8/22/17, 10/03/17, 1/23/18,
1/30/18, 3/20/18, 5/1/18, 11/6/18, 1/29/19, 2/26/19,
4/9/18, 5/21/19

Docket 7

Tentative Ruling:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

**United States Bankruptcy Court
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2:18-18929 Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/4/18, 10/9/18, 11/6/18, 12/11/18, 01/15/19,
2/26/19, 3/26/19; 04/30/19

Docket 14

Tentative Ruling:

Tentative Ruling for 6/18/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

Despite prior optimistic projections, Debtor's latest monthly operating report (dkt. 81) shows tenuous results. Should this case be dismissed?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (not timely served, see dkt. 24, 35 & 41, but the tentative ruling is not to set a new bar date because any party in interest who asserts prejudice can seek relief).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 7/30/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

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CONT... Newark Special Technologies, Inc. Dba Magorien Hon Chapter 11

Debtor's latest MOR (dkt. 75) shows a (very minor) positive cash flow, and projects increases in future. The tentative ruling is to continue this status conference as set forth below. Appearances are not required on 4/30/19.

(1) Current issues

n/a

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (not timely served, see dkt. 24, 35 & 41, but the tentative ruling is not to set a new bar date because any party in interest who asserts prejudice can seek relief).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/18/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required.

(1) Current issues

(a) Amended plan (dkt. 72) and disclosure statement (dkt. 73)

(i) Exhibits generally

The exhibits should not all be attached to both documents. Exhibits A and B should be attached to the Plan and the rest to the Disclosure Statement (as stated in the Disclosure Statement). Attaching duplicate exhibits to both documents adds confusion, and expense to copy and mail the documents.

(ii) Exhibit B (dkt. 72 at PDF p. 10)

This exhibit shows a cure amount of "none" but then lists a negative

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amount on the Effective Date, which artificially reduces the payments required on the Effective Date. It appears that, but for this calculation error, Debtor would run out of cash in the first month.

(iii) Exhibit C (dkt. 72 at PDF pp.12-13)

First, despite overly optimistic projections (see below) this exhibit still shows projected losses. Second, there is no support for the projections: Exhibit C1, lines 1a and 1b include a space to show the source. Both "Historical gross inc." and "Historical expenses" are supposed to be dollar amounts from a "recent MOR part IX or equivalent" which is supposed to be "attached/at docket# _____," but there is no such document attached or referenced. (Emphasis omitted.)

(iv) Exhibit E (dkt. 72 at PDF p. 15)

This exhibit shows monthly payments of \$1,137.68 to the State Bank of India, for total payments of \$50,000 on its bifurcated secured claim. First, this is completely different from the \$3,667.23 shown on Exhibit A (dkt. 72 at PDF p.9) on its unbifurcated claim. What treatment is Debtor actually proposing?

Second, because the spreadsheet automatically fills in the numbers from Exhibit E on Exhibit A, someone must have substituted different exhibits (perhaps from different drafts). This means that counsel's declaration (dkt. 72, p.7) that the spreadsheet has not been altered is FALSE.

This is the second time that unauthorized modifications have occurred. Debtor's counsel is cautioned that if this happens again that may result in sanctions.

(b) Feasibility of any reorganization

(A) Actual performance

MOR #7 (for 2/19, dkt. 74, p.1) shows a net loss despite an "IRS refund & transfers from savings," and despite the fact that the adequate protection payment to Bank of India is only \$2800/mo. (MOR dkt.74, at PDF p.12) but the Plan (dkt. 72) proposes to pay the bank \$3,667.23/mo. How is that remotely realistic?

(B) Projections

A letter from Debtor's principal dated 3/12/19 (dkt. 72, at PDF p.11) states that Nov.-Jan is "always usually a much slower period in our industry and sales will normally be lowest during these months"; but the letter projects better performance in February and an increase of \$500 per 7-month period thereafter (the Disclosure Statement is even rosier, with a projected \$1000

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increase in the first period, dkt. 73, Ex.C, line 7a, Period A). If those projections are already off, how can this Court find that any plan is feasible (11 U.S.C. 1129(a)(11))?

Should this case be dismissed or converted?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (not timely served, see dkt. 24, 35 & 41, but the tentative ruling is not to set a new bar date because any party in interest who asserts prejudice can seek relief).

(b) Plan/Disclosure Statement*: see above. The tentative ruling is that, if this case is not dismissed or converted, Debtor will need to show substantial progress in MOR results before any further revisions to any plan or disclosure statement.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 4/30/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues

(a) Disclosure statement (dkt. 64) and plan (dkt. 65)

Judge Bason will review various issues with these documents at the Status Conference, and address when amended documents must be filed.

(2) Deadlines/dates. This case was filed on 8/2/18.

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(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: see above

(c) Continued status conference: The tentative ruling is to continue this status conference to 3/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues

(a) Monthly Operating Reports ("MORs")

The November MOR (dkt. 62, p.2) includes numerous entries described as "Funds Transfer." How is the reader to know what that means? The same MOR includes a column of numbers with nothing else next to it (dkt. 62, p.3). How is the reader to know what that means?

(b) Plan and Disclosure Statement ("D/S")

The deadline to file the Plan and D/S is fast approaching (see below). What is the outline of Debtor's intended plan? Has Debtor reviewed Judge Bason's procedures and form of order re same?

(c) Employment of counsel

At the hearing on 12/11/18 this Court adopted the tentative ruling approving counsel's employment, which directed that a proposed order be lodged within 7 days. Why has no such order been lodged?

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: 1/31/19 (dkt. 59)

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(c) Continued status conference: The tentative ruling is to continue this status conference to 2/26/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) MORs (dkt. 51, 52, 50 for Aug., Sept. & Oct.)

(i) The Payroll Account continues to show a negative balance. How is that sustainable? (ii) The amended August MOR provides for payments to insider Savita Viradia. Why was there no notice of insider compensation filed and served for this person, and what consequences should follow? (iii) The Tax Account shows no activity, and the Tax Liabilities section is blank. Is Debtor paying and/or reserving for all employment, sales, business, income, and other taxes?

(b) Motion to employ (dkt. 49)

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: The tentative ruling is to continue this

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status conference to 1/15/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) MORs (dkt. 44, 45)

MOR1 (for August, 2018) shows an ending balance of negative \$4,549.03. MOR2 (for September 2018) shows an ending balance of negative \$4,074.81. Both MORs also show negative postpetition accounts receivable. What does that mean?

Both MORs were also filed late. They were due middle of the month following the reporting period, and this Court's adopted tentative ruling for 10/9/18 directed that the defective August MOR be cured by 10/15/18 but it and the September MOR were not filed until 10/31/18.

Are the (untimely) MORs inaccurate? How can parties in interest and this Court rely on them for current information? If they're accurate, they appear to show losses, or at least an inability to generate profits that would be needed to reorganization.

In view of all the foregoing, should this case be converted or dismissed?

(b) Insider compensation

Debtor's notices of insider compensation (dkt. 46, 47) were not served until 10/24/18, even though this Court's adopted tentative ruling for 10/9/18

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directed service no later than 10/12/18. Why?

Meanwhile, although Debtor's principal Neel Viradia declares under penalty of perjury that no unauthorized insider compensation has been paid (dkt. 45, p.16, answer #2), the breakdown of payroll in the MORs apparently shows otherwise (e.g., dkt. 45, p.5, lines 1-2). The form itself states (e.g., dkt. 47, p.2, bottom of page): "[T]his notice ... must be filed and served fifteen days before any pay out of compensation" What consequences should follow from Debtor's apparent violation of that limitation?

(c) Employment (dkt. 32, superseded by amended application, dkt. 42)

The amended application does not specify whether the \$10,000 fee already paid by Batuk Viradia (and the filing fee), or the \$2,000 he has committed to pay, are loans to Debtor, or gifts, or equity investments, or something else. Nor has he filed a declaration confirming that he understands that proposed counsel's sole loyalty must be to Debtor (not to Mr. Viradia), and that has been informed that there might be conflicts of interest and he may wish to seek separate counsel (e.g., conflicts could exist if Mr. Viradia received any preferential payments or other avoidable transfers, or if Mr. Viradia would prefer that Debtor take a course of action that is not in the best interests of creditors).

More generally, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

The tentative ruling is that, if this case is not dismissed or converted, the employment application must be continued to the date of the continued status conference (set forth below) with a deadline of 11/13/18 for Debtor to file Mr. Viradia's declaration, with a copy of this tentative ruling attached as an exhibit, addressing the issues described above.

(d) Cash collateral. If this case is not dismissed or converted, the tentative ruling is to authorize the use of cash collateral on a final basis, on the same terms as the interim authorization (dkt. 37).

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18 (order, dkt. 35). Although the order was not timely served (see dkt. 41), the tentative ruling is that the confusion of setting yet another bar date would outweigh the

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benefit, and that this Court can address any prejudice from shortened notice when and if anyone files a late claim and seeks to have the claim treated as timely.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 12/11/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

Revised Tentative Ruling for 10/9/18:

Appearances required.

(1) Current issues.

(a) Cash collateral. The tentative ruling is to authorize the use of cash collateral as set forth in the tentative ruling for calendar no. 6 (10/9/18 at 1:00 p.m.).

(b) Insider compensation. Local Bankruptcy Rule ("LBR") 2014-1(a) requires a notice and opportunity to object before any insider compensation is paid. But no such notice has been filed, and Debtor's Monthly Operating Report ("MOR") for the month ending 8/31/18 reflects payments to each of two insiders. Dkt. 34, at PDF p.8. The tentative ruling is to direct Debtor to serve the notice using the local form no later than 10/12/18.

(c) Bar date. On 9/5/18 this Court entered its "Order Setting Bar Date: November 9, 2018; and Directing Service by Debtor." Dkt. 24. The debtor failed to serve that order. Why? The tentative ruling is to issue an amended order setting a bar date as set forth below.

(d) MOR (dkt. 34). The MOR appears to be incomplete. For example, it refers to multiple accounts but appears to provide only a combined report; many of the entries are vague or have no description; and page one includes a reference to "Non DIP personal checking (see attached letter)" but no letter or any other explanation is attached. The tentative ruling is to set a deadline of 10/15/18 to file an amended MOR correcting these and any other deficiencies.

(e) Employment (dkt. 25). As highlighted by the objection of the United States Trustee ("UST") (dkt. 28), the parties should be prepared to address

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(a) the proposed \$12,000 flat fee under 11 U.S.C. 328 and (b) the source of the "loan" for \$10,000 of that fee (dkt. 25, p.8) and the source of the remaining \$2,000 plus the filing fee.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: See above. In view of Debtor's failure to serve the order (dkt.24), the tentative ruling is to issue an amended order setting a bar date of 12/28/18 and directing the debtor to serve that order no later than 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/6/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/4/18

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has no issues to raise sua sponte.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 10/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 11/1/18 using the forms

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required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/9/18 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Newark Special Technologies, Inc.

Represented By
Joseph L Pittera

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2:19-10153 Christian Rossil

Chapter 11

#7.00 Hrg re: Motion in Individual Ch 11 Case for
Order authorizing debtor in possession to
employ professional

Docket 82

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 11,
6/18/19 at 1:00 p.m.)

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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#8.00 Cont'd hrg re: Motion to Sell Property of the Estate
Free and Clear of Liens Under Section 363(f)
fr. 04/02/19, 4/9/19; 04/30/19, 05/21/19

Docket 42

Tentative Ruling:

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 11, 6/18/19 at 1:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 18, 5/21/19 at 1:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the status conference (calendar no. 16, 4/30/19 at 1:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the status conference (calendar no. 9, 4/9/19 at 1:00 p.m.).

Tentative Ruling for 4/2/19:

Appearances required. The tentative ruling is to deny the motion unless all the issues set forth below are resolved, and if that occurs, or is reliably promised, then continue the motion to 4/30/19 at 1:00 p.m. with a deadline of 4/9/19 for Debtor to file and serve an amended motion on all creditors via U.S. mail.

The tentative ruling is to require the following:

(a) Overbidding: Debtor must amend the overbidding procedures to address the concerns raised in the objection filed by the United States Trustee ("UST") (dkt. 39);

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(b) Rent: Debtor must satisfactorily address whether the tenant/proposed buyer is being forgiven rent and, if not, what steps are being taken to recover the missing rent payments (*id.*);

(c) Receipt of deposits: Debtor must provide an offer of proof regarding the proposed buyer's deposits (*id.*);

(d) Withholdings, and use of net proceeds: Debtor must provide that the sale free and clear of liens will result in Debtor holding only an approximation of the disputed portion of those liens, and the withheld portion must be specified in the motion and must be a reasonable amount; and Debtor must address what assurances will be provided that the net proceeds of sale will be held or will only be used for purposes that are authorized by this Court (*e.g.*, will all net proceeds be held in a blocked account?);

(e) Notice of sale: No later than the deadline for filing and serving the amended motion, Debtor must file a notice of sale on the local form (LBR 6004-1(f));

(f) Taxes: Debtor must address the tax consequences of the proposed sale (LBR 6004-1(c)(3)(l)).

(g) "Pre-Release to Debtor": Debtor must explain and justify the tens of thousands of dollars that are listed as "Pre Release" to Debtor before the amount "Due To Seller" on the estimated closing statement (dkt. 23, Ex.B, at PDF p.43);

(h) Good faith finding: Judge Bason's posted procedures (available at cacb.uscourts.gov) provide that before any successful bidder is found to be a good faith purchaser under 11 U.S.C. 363(m), supporting declaration(s) must be filed that address:

(1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees),

(2) consideration: whether any consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and

(3) absence of fraud or collusion between the bidder and any relevant persons (*e.g.*, other bidders, the debtor's officers,

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directors, agents or employees), or any attempt to take unfair advantage of other bidders. *See generally In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Movant(s):

Christian Rossil

Represented By
Todd B Becker

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2:19-10153 Christian Rossil

Chapter 11

#9.00 Cont'd hrg. re: Order To Show Cause Why Debtor And Proposed Buyers Should Not Both Be Required to Employ Independent Third Party Brokers, Or Why Other Remedies Should Not Be Imposed For Apparent Violations Of Bankruptcy Code And Rules fr. 05/21/19

Docket 65

Tentative Ruling:

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 11, 6/18/19 at 1:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 18, 5/21/19 at 1:00 p.m.)

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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2:19-10153 Christian Rossil

Chapter 11

#10.00 Con't hrg re: Motion in Individual Ch 11 Case for Order Approving a Budget for the Use of the Debtor's Cash and Post-Petition Income fr. 05/21/19

Docket 19

Tentative Ruling:

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 11, 6/18/19 at 1:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 18, 5/21/19 at 1:00 p.m.)

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

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2:19-10153 Christian Rossil

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#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/05/19, 03/05/19, 4/9/19, 04/30/19, 05/21/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/18/19:

Appearances required.

(1) Current issues

(a) Debtor's application to employ Richard Michael Harris as real estate broker (dkt. 82&83)

Grant, if the case is not dismissed or converted.

(d) Budget Motion (dkt. 87) and amended Schedule I (dkt. 87, Ex. D)

This Court's Scheduling Order directed Debtor to file and serve the Budget Motion by 5/30/19 (dkt. 80, at 2) but it was not filed and served until 6/3/19. Why? If there is a satisfactory explanation, and if this case is not dismissed or converted, the tentative ruling is to grant the motion.

(c) Motion to sell free and clear (the "Sale Motion," dkt. 42)

No statements have been filed by the proposed purchaser and her broker of their connections with Debtor and other parties in interest, as required by this Court's order (dkt. 80, para.3.iii.&iv.). The proposed sale has been continued multiple times, and Debtor has been given a long time to attempt to maximize the sale proceeds, but Debtor still has not provided adequate assurances of an arms-length transaction and maximization of value. Why should this Court not dismiss or convert this bankruptcy case? The tentative ruling is to deny the Sale Motion and convert this bankruptcy case to chapter 7.

Proposed order: Debtor is directed to lodge proposed orders via LOU within 7 days after the hearing date (see LBR 9021-1(b)(1)(B)) except that this Court will prepare the conversion order.

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 (untimely but excused, dkt. 25).

(b) Plan/Disclosure Statement*: TBD

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(c) Continued status conference: N/A (if this case is dismissed or converted).

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:
Appearances required.

(1) Current issues

(a) Budget Motion (dkt. 19) and incomplete Schedule I (see dkt. 68)

This Court set the Budget Motion for hearing because the attached Bankruptcy Schedules I and J were not completed in accordance with the instructions on the form (see dkt. 68). Debtor was directed to file an amended Schedule I to cure the defect by 5/16/19. Dkt. 68. As of the time this tentative ruling has been prepared, no amended schedule has been filed. Why not?

What remedies should this Court impose for that omission, and for the fact that Debtor did not seek approval of a budget until four months after this bankruptcy was filed? See *id.* Should this Court impose a sanction on Debtor and/or Debtor's counsel?

If this case is not dismissed or converted (see below), the tentative ruling is to continue the Budget Motion to the same date and time as the continued status conference (see below).

(b) Order to show cause ("OSC," dkt. 65), and Debtor's response (dkt. 77)

The parties should be prepared to address whether this case should be converted or dismissed. If this case is not dismissed or converted at this hearing, the tentative ruling (per dkt. 65, to which Debtor has acceded per dkt. 77) is (i) to continue the OSC to the same time as the continued status

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conference (see below), and (ii) to require both Debtor and proposed buyer of the Gage Avenue property to hire independent third party brokers in connection with the sale, with full disclosure and (as to Debtor) with this Court's approval of such employment. See dkt. 65.

(c) Motion to sell free and clear (the "Sale Motion," dkt. 42)

If this case is not dismissed or converted, the tentative ruling is to continue the Sale Motion to the same time as the continued status conference, to allow time for Debtor and the proposed buyer to hire independent third party brokers as set forth above. As to Debtor's alleged "bona fide dispute" regarding certain liens (11 U.S.C. 363(f)(4)), without loan closing statements (at a minimum), how can this Court accept on their face Debtor's assertions that, supposedly, he did not receive all of the net proceeds of certain promised loans to which he claims to be entitled? See Adv. No. 2:19-ap-01138-NB, dkt. 1; *and* Adv. No. 2:19-ap-01089-NB, dkt. 1.

The tentative ruling is that Debtor has not adequately addressed the objections of Mr. Daneil Partida (dkt. 55) and Mr. Andrew Kwiat (dkt. 52) to the Sale Motion. This Court has the same concerns regarding other lienholders. Therefore, if any sale is approved in future, this Court anticipates that (at least if the current record remains unchanged) all liens (including not just those of the objecting creditors, but all other asserted liens as well) will need to be paid out of escrow in accordance with escrow demands.

To be clear, the issue before this Court is solely whether or not to authorize any sale to be free and clear of some portion of the liens, not whether the liens are ultimately valid. Therefore, if distributions are made to lienholders and later Debtor can establish that some lienholders have been overpaid, he would remain free to pursue any legitimate action to recover any such overpayment.

The foregoing issues can be addressed at the continued sale hearing (if this case is not dismissed or converted).

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 (untimely but excused, dkt. 25).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/18/19 at 1:00 p.m. (if this case is not dismissed or converted). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:
Appearances required.

(1) Current issues

(a) Relief From Stay Motion (the "R/S Motion," dkt. 31)

According to Debtor's status report (dkt. 54) the disputes with movant Ms. Moreno have been resolved by an agreement to be embodied in a forthcoming proposed adequate protection order ("APO"). The parties are directed to address whether any disputes remain, and when the APO will be lodged.

(b) Amended Sale Motion (dkt. 42)

On further review this Court is concerned with several aspects of the proposed sale of the Gage Ave. property. The proposed sale is for \$550,000, subject to overbids, to the current tenant, Ms. Gabi Rangel ("Proposed Buyer").

(i) Representing both sides

This Court recalls that at prior hearings Debtor made assurances that Proposed Buyer was representing herself. But Debtor's real estate agency, Realty World Capero, is listed as agent for both the seller (Debtor) and Proposed Buyer. See Sale Motion (dkt. 42) Ex.A at PDF pp.30-33.

Although dual agency is permissible outside of bankruptcy, within bankruptcy Judge Bason has prohibited dual agency because it means the real estate agent who represents the bankruptcy estate is not disinterested and may have an actual conflict of interest. The fact that Debtor is acting as his own agent, and his firm is representing Proposed Buyer, only makes these concerns worse. Can the Sale Motion be granted despite these concerns?

(ii) Service issues

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One lienholder asserts that he did not receive the Sale Motion papers, and only recently learned of the proposed sale when another lienholder contacted him. See Ltd. Obj. (dkt. 52). Can this Court rely on Debtor's proof of service?

(iii) Buyer's closing costs

The estimating closing statement (dkt. 42, Ex.B, at PDF p.48) includes a "Seller Credit for Buyer[']s Closing Costs" in the amount of \$16,500. What is the basis for this distribution to Proposed Buyer? Does that effectively reduce the purchase price to \$533,500 (because \$550,000 - \$16,500 = \$533,500)? Does that make the initial overbid of \$575,000 unreasonably high, and thereby chill the bidding?

(iv) Unpaid rent

The Sale Motion reveals that Proposed Buyer owes \$1,353 for March, 2019 rent, supposedly offset by some repairs to the property; but Debtor has not yet received receipts. See dkt. 42, p.10:12-14. In addition, rent is due for April, 2019. *Id.*, p.10:15-17. What is the current status of these matters?

(v) Accounting for receipt and use of security deposit

The accounting in the Sale Motion is unclear. Nor is it clear what happened before or after Debtor filed his bankruptcy petition, on 1/18/19 (the "Petition Date").

Apparently, Proposed Buyer made a \$5,000 deposit; was supposed to make an additional \$35,000 deposit; and actually made a total deposit of \$50,000. See Dkt. 42, p.10:19-20. It is unclear if some of these funds were received after the Petition Date.

It appears that there was a "pre-release" to Debtor of the entire \$50,000 security deposit. Debtor alleges (dkt. 42, pp.10:18-11:18) that he used those funds as follows:

\$ 20,200.00 Juan Resendiz (paid prepetition? for prepetition work)
\$ 4,055.44 Home Depot supplies (prepetition)
\$ 8,250.00 1st DOT (Kwait) (paid prepetition? for prepetition debt)
\$ 5,350.00 Ramon Ruelas (repairs) (paid prepetition? prepetition work?)

\$ 4,770.00 Debtor's (prepetition?) payments re office lease & car

\$ 42,625.44 total

Debtor is "unable to account for" the balance, and alleges that it "was likely used on miscellaneous expenses for [Debtor's] business and the property." Sale Motion (dkt. 42) p.11:17-18. (Debtor calculates \$4,594.56,

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id., but this Court calculates \$7,374.56 because \$50,000 - \$42,625.44 = \$7,374.56.)

Depending on the timing, Debtor's depletion of the security deposit could constitute unauthorized postpetition borrowing (11 U.S.C. 364), and his use of the resulting funds could be unauthorized postpetition acts out of the ordinary course of business (11 U.S.C. 363), or unauthorized postpetition transfers (11 U.S.C. 549). Debtor is directed to clarify the timing.

When were the "pre-releases" of the security deposit made? When were the expenditures made? How can Debtor provide any evidence regarding the timing and use of the missing \$7,374.56?

(vi) Sale "free and clear"

One of Debtor's two grounds for selling free and clear of liens is an alleged "bona fide" dispute (11 U.S.C. 363(f)(4)) regarding the dollar amount of those liens:

The Debtor, simultaneously with the prosecution of this Motion, will seek through adversary complaints filed against the secured creditors holding liens against the Property to void said liens in whole or in part. The allegations of said complaints will include usury claims and challenges to the amount of said claims (i.e., the Debtor did not receive the amounts the creditors promised to lend). Debtor proposes that proceeds in the amount of all secured claims against the Property be held in escrow by Debtor's attorney until the resolution of said adversary proceedings or as agreed to by the parties. [Sale Motion (dkt. 42), p.6:15-23 (emphasis added), and see *id.* pp.17:15-18:6.]

As of the preparation of this tentative ruling, no such adversary proceedings have been filed (except for the one against Ms. Moreno that allegedly has been settled as part of the forthcoming APO). See dkt. 40 (Adv.P. 2:19-ap-01089-NB). In addition, there is reason to doubt whether any such disputes are "bona fide."

The limited opposition of the holder of the first deed of trust, Andrew Kwiat (dkt.52), points out that he is a licensed real estate broker, which generally creates an exception to the usury limitations. More broadly, the fact that Debtor himself is a licensed real estate broker might exempt all of the liens from the usury limitations (this Court has not researched that issue, and only uses it to illustrate that Debtor's bald assertion of "usury" does not appear to be sufficient to create a "bona fide" dispute).

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Debtor's other ground for selling free and clear of liens is that the sale price is greater than the aggregate value of all liens on the property (11 U.S.C. 363(f)(3)). See Sale Motion (dkt. 42), p.11:1-6. That appears to be a sufficient ground for authorizing the sale itself, but not for withholding any of the proceeds.

Any withholding of proceeds would have to have some bankruptcy-related purpose - *e.g.*, to use the funds to preserve or enhance the bankruptcy estate - and would have to be conditioned on adequate protection of each lienholder's interests. See 11 U.S.C. 363(e). Debtor's Sale Motion does not suggest any such purpose, nor any such adequate protection.

Accordingly, the tentative ruling is that (assuming this Court's other concerns are sufficiently addressed and that the sale can be approved at all) all lienholders must be paid in full out of escrow. The only exception is that, to the extent Debtor has a good faith basis to challenge the reasonableness of any attorney fees or other charges, the tentative ruling is that those amounts may be withheld from distribution, but must be maintained in a blocked account, or a trust account maintained by Debtor's counsel, or the equivalent.

(vii) Requested waiver of 14-day stay

Debtor requests a waiver of the 14-day stay of Rule 6004(h) (Fed.R.Bankr.P.). But Debtor provides no reason why the sale, which has already waited many months, cannot wait 14 days longer. That appears to be especially appropriate because Debtor's latest status report (dkt. 54, p.2:12-16) states that the Gage Ave. property is only "nearing" rehabilitation, and Debtor is "awaiting approval" by the architect of an "attic addition." The tentative ruling is to deny Debtor's request to waive the 14-day stay.

(viii) Conclusion as to Sale Motion/Gage Ave. property

The parties are directed to address the foregoing issues. If this Court's concerns can be adequately addressed, the tentative ruling is to authorize the sale but require all liens to be paid in full out of escrow, with the possible exception of attorney fees and other charges that are subject to bona fide dispute and that are held in a blocked account or the equivalent.

Proposed order: If the Sale Motion is granted, Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR

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9021-1(b)(1)(B).

Chapter 11

- (2) Deadlines/dates. This case was filed on 1/8/19.
- (a) Bar date: 4/16/19 (untimely but excused, dkt. 25).
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 5/21/19 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances are not required on 4/9/19. The tentative continuances/dispositions of matters before this Court are set forth below.

(1) Current issues

(a) Relief From Stay Motion (the "R/S Motion," dkt. 31)

This Court contin[u]ed the hearing on the R/S Motion per the parties' stipulation (see dkt. 44) informing this Court that the parties needed time to finalize and execute an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

(b) Amended Motion to Sell Free and Clear (dkt. 42)

Grant, as this Court is satisfied that the issues raised in its 4/2/19 tentative ruling have been adequately addressed.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

- (2) Deadlines/dates. This case was filed on 1/8/19.

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Chapter 11

(a) Bar date: 4/16/19 (untimely but excused, dkt. 25).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 5/21/19 at 1:00 p.m., *brief* status report due 5/7/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:
Appearances required.

(1) Current issues

(a) Financial losses and irregularities

Debtor's first Monthly Operating Report ("MOR," Jan. 2019, dkt. 17, p.1) appears to show that Debtor started with \$2,518.85 and ended with \$25.64. How is this sustainable? It appears to match Debtor's bankruptcy Schedules I&J (dkt. 1 at PDF pp.43-46), which show negative cash flow and no anticipated future change. Although Debtor's status report (dkt. 13) states that Debtor intends to sell one property and/or evict the tenant, but the docket does not reflect any progress on those things. Based on the foregoing, the tentative ruling is to dismiss this bankruptcy case.

The same MOR appears to show that Debtor paid \$150 on a "Personal Loan" from "Samuel Samuel" via "Cash App" (dkt. 17, at PDF p.2, 1/15/19 entry) - is that an unauthorized postpetition borrowing? Alternatively, is it an unauthorized payment of prepetition debt? Either way, it appears that Debtor is violating the duties of a debtor in possession.

Likewise, the MOR shows a payment of \$479.31 to Capital One Auto Carpay for an "Automobile Loan." Dkt. 17, at PDF p.3, entry for 1/22/19. What is the explanation?

Likewise, the MOR shows a payment of \$228.96 to "Charter

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Communications" on 1/28/19 for "Internet (Includes Past Due Amounts)." This appears to violate the automatic stay: what will Debtor's counsel do about that?

(b) Disregarding Court order

This Court's "Order Setting Bar Date: April 16, 2019 and Directing Service by Debtor" (dkt. 14, emphasis added) specifically directed Debtor to serve a copy of that order no later than February 11, 2019. There is no proof of such service. Why not? The tentative ruling, if this case is not dismissed, is to issue an order setting an amended bar date, and once again direct Debtor to serve a copy of that amended order on creditors (see below).

(c) Missing budget motion. At the 2/5/19 hearing and in the Initial Case Status Report (dkt. 13), Debtor represented to this Court that a budget motion would be forthcoming. As of the writing of this tentative ruling, no such motion has been filed. Why not?

(2) Deadlines/dates. This case was filed on 1/8/19.

(a) Bar date: 4/16/19 but no notice (see above), so re-set to 5/30/19 (DO NOT service any notice - this Court will prepare an amended bar date order and that order will direct Debtor to serve it on creditors).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/9/19 at 1:00 p.m., *brief* status report due 3/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

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CONT... Christian Rossil

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(1) Current issues.

(a) Missing status report. Debtor is directed to explain why a Case Status Report was not filed, as required by this Court's order setting this status conference (dkt. 5).

(b) Missing "first day" motions. Debtor has failed to file a budget motion (required by Judge Bason's posted procedures, available at www.cacb.uscourts.gov). Debtor also has not filed any other typical "first day" motions (e.g., a utility motion).

(c) Negative, and inadequately supported, monthly income. Debtor appears to have a new job as a real estate broker, but even with that new (alleged) income and supplemental income as a Lyft driver he shows negative cash flow. See Bankruptcy Schedules I & J (dkt. 1 at PDF pp. 43-46).

Debtor appears to have two properties, but does not list any leases or any income from a rental property: why not?

Debtor has stated under penalty of perjury that he does not expect any changes to income or expenses (see bankruptcy Schedule I, item 13, and Schedule J, item 24). How can Debtor hope to reorganize with negative cash flow?

In addition, the (sparse) income that is reported is inadequately supported. Debtor has ignored the instructions on bankruptcy Schedule I, line 8a, to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income."

(c) Dismissal? Should this Court dismiss this case? Does the foregoing constitute a "willful failure to appear in proper prosecution" of this case, and/or a "willful" failure to comply with this Court's order setting this status conference, either of which would support dismissal with a bar under 11 U.S.C. 109(g)(1)?

(2) Deadlines/dates. This case was filed on 1/8/19. **If** this case is not dismissed, the tentative ruling is to set the following deadlines/dates:

(a) Bar date: 4/16/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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Tuesday, June 18, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#1.00 Hrg re: Motion to Approve Compromise with the
David MacMillan and Cynthia Martin Resident Trusts

Docket 366

Tentative Ruling:

Appearances required. There is no tentative ruling. The parties should be prepared to address the issues in the motion, opposition, and reply papers (see dkt. 366, 373, 377).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, June 18, 2019

Hearing Room 1545

2:00 PM

2:18-19035 Phyllis Yolanda Young

Chapter 7

#2.00 Cont'd hrg re: Reaffirmation Agreement
[Tustin Community Bank]
fr. 1/15, 4/11/19

Docket 9

Tentative Ruling:

Appearances required. There is no tentative ruling, but the Debtor should be prepared to apprise this Court of whether her efforts to work with the lender on redeeming or replacing the vehicle were successful.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Phyllis Yolanda Young

Represented By
Lauren M Foley

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

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Tuesday, June 18, 2019

Hearing Room 1545

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#3.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 5/7/19, 05/21/19

Docket 76

Tentative Ruling:

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5,
6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6,
5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1,
5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#4.00 Cont'd hrg re: Motion for Order: (1) Approving Asset Purchase Agreement and Authorizing the Sale of Property Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. § 363(b) and (f); (2) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; (3) Approving the Form and Manner of Notice; and (4) Approving Buyer as Good Faith Purchaser Pursuant to 11 U.S.C. § 363(m) fr. 5/7/19, 05/21/19

Docket 80

Tentative Ruling:

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

2:00 PM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019, 5/7/19, 05/21/19

Docket 5

Tentative Ruling:

Tentative Ruling for 6/18/19:

Appearances required.

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80);
Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

There has been little activity on the docket since the last status conference in this case, and it is unclear whether Sale Part One has closed. Has Sale Part One closed? If so, what progress has been made re Sale Part Two? Should this Court continue the Sale Motion to the same time as the continued status conference (see below)?

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Should this Court continue the Conversion Motion to the same time as the continued status conference (see below)?

(c) Amended bar date order (dkt. 112)

This Court issued its Amended Order Setting Bar Date (dkt. 112), directing service by Debtor be completed by 5/24/19. The docket does not reflect any proof of service. Was the order timely served? If so, the tentative ruling is to set a deadline of 6/19/19 to file a proof of such service; and if not, the tentative ruling is to issue a new order setting a new bar date.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 7/30/19 at 2:00 p.m., with no written

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status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances required.

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

At the hearing on 5/7/19 this Court adopted the tentative ruling and granted the Sale Motion, with a waiver of the 14-day stay under 6004(h), subject some modifications. First, although this Court overruled objections and approved Sale Part One (as described in the Sale Motion), this Court set this continued hearing on 5/21/19 to address whether that sale has closed, and to resolve any issues involving the dollar amounts need to (i) cure leased equipment defaults or (ii) pay financed equipment liens.

Second, as to the proposed Sale Part Two, this Court ruled that the sale to Debtor's principal, Ms. Galant, is approved for a payment of \$100,000 and can close with no further order of this Court. But if it turns out that she is unable to pay that price (within the time frame outlined in the Sale Motion), and (i) if she proposes to pay between \$50,000 and \$99,999, then the parties would need to address what remedies are appropriate, such as opening up the proposed sale to overbids; and (ii) if she proposes to pay less than \$50,000 then the proposed Sale Part Two is disapproved, and the intellectual property (and miscellaneous assets included in Sale Part Two) would continue to belong to bankruptcy estate, and could be sold or otherwise addressed.

This Court directed Debtor to lodge a proposed order memorializing

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the foregoing rulings. As of the preparation of this tentative ruling, no such proposed order has been lodged. Why not?

In any event, are there any issues that are properly before this Court at this time in connection with the Sale Motion? Should this Court continue the Sale Motion to the same time as the continued status conference (see below)?

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

There is no tentative ruling, but the parties should be prepared to address the following issues. It is unclear whether Sale Part One has closed. This Court notes that there is a declaration (dkt. 107) of a real estate broker for Debtor's principal, Ms. Galant, regarding the listing of her property for sale (which was contemplated to fund the Sale Part Two); but there is no information about the refinancing the Ms. Galant was contemplating (which was contemplated to fund the Sale Part One).

Should this Court continue the Conversion Motion to the same time as the continued status conference (see below)?

(c) Bar date order (dkt. 108)

This Court issued its Order Setting Bar Date (dkt. 108), directing service by Debtor be completed by 5/10/19. The docket does not reflect any proof of service. What the order timely served? If so, the tentative ruling is to set a deadline of 5/22/19 to file a proof of such service; and if not, the tentative ruling is to issue a new order setting a new bar date.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 6/20/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 6/18/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... **Jackies Cookie Connection LLC**

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 5/7/19:
Appearances required.**

(1) Current issues

(a) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Continue to to be heard concurrently with the continued status conference (see part "(2)" of this tentative ruling, below). If, prior to the continued hearing date, Debtor files a declaration that it has closed the proposed Sale Part One, this Court anticipates that the tentative ruling for the continued hearing will be to deny the Conversion Motion without prejudice.

(b) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

Grant the Sale Motion, but only on the following terms:

(i) Minimum dollar amount for Sale Part Two. Debtor's principal, Ms. Rachel Galant, is essentially agreeing to pay debts on which she is already the guarantor (Sale Part One, estimated at \$450,000), and if there is any money left over from the anticipated \$550,000 proceeds of the refinance and sale of her home, then that residual amount (estimated at \$100,000, but possibly much less, down to \$-0-) will be used to pay for Debtor's intellectual property and some *de minimus* assets (Sale Part Two).

The tentative ruling is that there must be a minimum dollar amount payable for Sale Part Two. That is essentially the consideration Ms. Galant must pay (beyond what she owes anyway, as a guarantor) for being able to continue her business without successor liability, based on the Bankruptcy Code's ability to sell property free and clear of an liability that would otherwise follow the assets (which is one type of "interest" in such property). See, e.g., *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003). See also *Myers v. U.S.*, 297 B.R. 774 (Bankr. S.D. Cal. 2003).

The tentative ruling is to set the minimum consideration for the Sale Part Two at not less than \$50,000. The tentative ruling is that this dollar amount is subject to overbids, as set forth below.

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Jackies Cookie Connection LLC

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(ii) Overbids. The proposed sale must be subject to any overbids at the hearing, including any overbids that are not cash (in whole or in part), or that are for fewer than all assets, or any other combination of things. Any "highest and best" determination must be made initially by Debtor, but subject to any objections and resolution by this Court. See generally, e.g., *In re Lahijani*, 325 B.R. 282 (9th Cir. BAP 2005); *In re Mickey Thompson Entm't Group, Inc.*, 292 B.R. 415, 421 (9th Cir. BAP 2003).

(iii) Backup bids. Any sale must be subject to any backup bids, in the event the winning bidder does not timely close either Sale Part One or Sale Part Two. For example, if the proposed purchaser - Debtor's principal - were to close Sale Part One but fail to close the Sale Part Two, and if a backup bidder has been approved for Sale Part Two, then the backup bidder could acquire the Sale Part Two assets (Debtor's recipes, trademarks, and other intellectual property).

(iv) Deadline for resolution of any disputes regarding purchase/cure amounts for equipment. The motion lists some cure/payment amounts as "TBD." In addition, one creditor has objected. See Sale Motion (dkt. 82, Schedules A&B), and see Direct Cap. Corp. Obj. (dkt. 93) (asserting \$11,050.14 arrears plus \$5,411.34 attorney fees to date, for a total alleged cure amount of approximately \$16,461.48).

The tentative ruling is to set a deadline of **May 20, 2019** for Debtor to reach agreement with any equipment lessor/lienholder, or else those creditors will be free to repossess the equipment and must be given access to do so on 24 hours' notice. The reason is that the equipment must be removed by the end of May, or the bankruptcy estate will "abandon" the equipment (technically, an "abandonment" under 11 U.S.C. 554 is abandonment from the estate to Debtor; but Debtor apparently means that it intends to leave the equipment at the landlord's premises, for disposition by the landlord - this Court expresses no opinion whether that would create any postpetition liability, or what competing rights might exist in the equipment at that point). Any dispute can be addressed at the continued hearing on the same date as the continued status conference (see below).

(v) Good faith finding

Any "good faith" finding under 11 U.S.C. 363(m) will need to be supported by sufficient evidence (see the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov). Normally that would include more information than what is Ms. Galant's declaration. See Dkt. 82, p.6:1-7. But

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the tentative ruling is to accept that declaration, combined with the purchase price above the debts for which she is personally liable and the agreement to turn over to Debtor any profit on resale of equipment, as sufficient *prima facie* evidence of good faith.

As to the objection of the "Objecting Creditors" (Mr. Haloosim *et al.*, dkt. 87), this Court is inclined to agree with Debtor that, on the present record, there is a *prima facie* showing by Debtor of sufficient marketing, and insufficient evidence of any improper conduct by Debtor. As for their objections under 11 U.S.C. 363(f), this Court questions whether they have an "interest" in the property to be sold and, if not, whether they have standing to raise any objections. In addition, as stated in the posted Producedures of Judge Bason (available at www.cacb.uscourts.gov):

§ 363(f): Sales free and clear. Regarding § 363(f)(5), Judge Bason does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under that statute whenever the interest at issue is subject to monetary valuation. *See In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, Judge Bason has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). *See* Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports*

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P'ship, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/21/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

(1) Current issues

This Court has reviewed the debtor's latest filed documents and is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/7/19 at 2:00 p.m., to be concurrent with the motion of the United States Trustee to convert or dismiss this case (dkt. 76, 90) and Debtor's 363 sale motion (dkt. 80). No written status report required.

*Warning: special procedures apply (see order setting initial status

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conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required for the status conference, but not for the abandonment motion. Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Dismissal or conversion

Debtor's fourth status report alleges (dkt. 62, p.2:10) that a "363 motion, supported with a stalking horse bid, will be submitted to the court" at some unspecified future date. This Court and parties in interest have heard that hope before, but it appears highly unlikely that Debtor will receive a bid that will exceed the losses that are accruing meanwhile.

Debtor's situation appears to be getting steadily worse, both on a cash basis and in terms of accrued liabilities for postpetition real property rent, equipment leasing, etc. See MOR for Jan. 2019 (dkt. 57) (small positive cash flow, but \$48,522.19 in postpetition payables as against \$6,281.31 receivables) *and* MOR for Feb. 2019 (dkt. 63) lines 22-25 (net cash flow of (\$1765.14) and increase in payables to \$96,380.19 - almost double the prior month - as against \$6,281.31 receivables - unchanged).

The tentative ruling is to dismiss this case and let Debtor and its secured creditors/equipment lessors make whatever arrangements they see fit for disposing of the collateral/leased equipment. (Office of the United States Trustee to lodge proposed order.)

(b) Motion to Compel Abandonment of Property (dkt. 59)

Grant. (Movant Shmashssma, LLC to lodge proposed order.)

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CONT... **Jackies Cookie Connection LLC**

Chapter 11

Proposed orders: The above-referenced parties are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues.

Debtor's status report (dkt. 55) reports some alleged progress in exploring either sale(s) of assets or sale of the business or both. What is the timeline? What assurances do creditors have that debtor's uncertainty on these issues (two months into this case) will not deplete rather than enhance any potential recoveries?

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., with a *brief* status report due 3/19/19.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. Continue as set forth below.

(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to

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dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions.

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This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#6.00 Hrg re: Motion to Extend Exclusivity Period for Filing a Chapter 11 Plan and Disclosure Statement and Gaining Acceptance of a Plan of Reorganization, and Extending Debtors Period to Assume or Reject Unexpired Leases of Non-Residential Real Property

Docket 239

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8, 6/18/19 at 2:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#7.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 5/21/19, 6/11/19

TCF EQUIPMENT FINANCE
VS
DEBTOR

Docket 190

***** VACATED *** REASON: Cont. to 7/2/19 at 2:00 p.m. per stipulation
(dkt. 246) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

Movant(s):

TCF EQUIPMENT FINANCE, a

Represented By
Raffi Khatchadourian

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/18/19:

Continue this status conference as set forth below. Appearances are not required on 6/18/19.

(1) Current issues

(a) Debtor's motion to extend exclusivity period and extend period to assume/reject leases (the "Extension Motion," dkt. 239)

Grant - *i.e.*, (i) extend Debtor's exclusive right to file a plan of reorganization and gain acceptance of a plan of reorganization to and including 9/1/19 and 12/1/19, respectively, and (ii) extend the period in which Debtor may assume or reject unexpired leases of non-residential real property to and including 9/1/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/30/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... **Schaefer Ambulance Services, Inc**

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances required.

(1) Current issues

(a) Application to employ real estate broker (dkt. 164)

Subject to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property (see Cathay Bank Obj., dkt. 243, at pp.6:25-7:6), the tentative ruling is to grant the application to employ real estate broker. The tentative ruling is to overrule Cathay Bank's other objections.

(i) Alleged lack of disinterestedness

Although Cathay Bank's supplemental opposition (dkt. 243) argues that the proposed broker, Standard Mortgage, Inc. dba Standard Realty ("Broker") is not "disinterested," and therefore is not eligible for employment under 11 U.S.C. 327(a), the tentative ruling is that this objection is not persuasive. True, an independent contractor with Broker, Mr. Akbari (who previously stated that he was an "employee" of Broker), is married to the sister of the wife of one of Debtor's officers/control persons. Cathay Bank cites authority that, under California law, being a brother-in-law is equivalent to being a brother, so the tentative ruling is that Mr. Akbari is a "relative" of an "officer" or "person in control" of Debtor and therefore he is an "insider." See 11 U.S.C. 101(45) (a "relative" means an "individual related by affinity or consanguinity within the third degree as determined by the common law"); 101(31)(B)(vi) (insider includes a "relative of a ... officer, or person in control of the debtor"). But that does not mean that Broker is an insider.

It also appears to be true that Debtor has not been as forthcoming with the connections between Broker and Debtor as would have been advisable, including both the familial relationships noted above and the recent discovery that Mr. Akbari "was the listing agent on the Cabrillo Street Property (during the *nunc pro tunc* timeframe in which the Broker is sought to be employed)" Cathay Bank Obj. dkt. 243, p.3:4-6 & Warrington Decl., Ex.1. Finally, as noted in the tentative ruling for 5/21/19, part (1)(b) (reproduced below), the statutory list of insiders "includes" but is not limited to the listed

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examples (see 11 U.S.C. 102(3)) and in addition this Court notes that a professional must be not only "disinterested" but also must not "hold or represent an interest adverse to the estate." 11 U.S.C. 327(a).

But the tentative ruling is that the facts recited above do not disqualify Broker from employment. A different real estate agent will be handling this matter (Mr. Ahmadi, dkt. 234); there is no evidence that Mr. Ahmadi or Broker itself has any incentive to act in any way adverse to the bankruptcy estate; and the failures to provide disclosure of every arguable "connection" between Broker and Debtor (within the meaning of Rule 2014, Fed. R. Bankr. P.) is unfortunate but understandable given the attenuated nature of the connections (Debtor's officer's wife's sister's husband originally was the listing agent for Broker on one of the four properties to be sold).

(ii) Alleged issues with 4.5% commission

Cathay Bank argues that Debtor has failed to justify a 4.5% commission; but to the contrary, the tentative ruling is that in general this Court should give deference to Debtor's business judgment, and that even without such deference Debtor has provided sufficient evidence that a 4.5% commission is appropriate (see dkt. 234) (Declaration regarding typical commission for commercial properties being 4-6%, and for residential properties 5-6%). Cathay Bank has provided no evidence to the contrary. Nor has Cathay Bank cited authority that Debtors are required to "shop around" for the lowest commission (which might not be the best broker) prior to selecting a broker, especially given that the proposed Broker has agreed to a slightly reduced commission from what is typical (see *id.* at 3).

(iii) Alleged lack of qualifications re industrial property

The tentative ruling is that although there may be conceptual differences between "industrial" and "commercial" properties, Cathay Bank has not established that any such difference is meaningful in the context of this case and the properties at issue.

(iv) Conclusion as to Broker

The tentative ruling is to grant the application and authorize Broker's employment subject, again, to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property. See Cathay Bank Obj., dkt. 243, at pp.6:25-7:6.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this

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Court's final ruling, subject to any changes ordered at the hearing.
See LBR 9021-1(b)(1)(B).

- (2) Deadlines/dates. This case was filed on 2/20/19.
- (a) Bar date: 6/17/19 (timely served, dkt. 129).
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 6/18/19 at 2:00 p.m., no status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Debtor's counsel's fee application (dkt. 175, 177)

Allow \$145,683.50 in fees and \$5,714.10 in expenses for a total of \$151,397.50, and authorize draw down of the retainer (\$124,846.70 remaining), with the balance of the fees and expenses to paid from the estate.

Cathay Bank's response (dkt. 207) does not object to allowance of the fees but seeks to reserve all rights it might have regarding a purported lien on some of the retainer. Debtor's reply (dkt. 215) asserts that the bank has no such rights to reserve because it has been given a replacement lien on the real estate.

This Court's recollection is that the bank did not entirely waive such rights at the hearing on 5/7/19, but did indicate that it was no more going to seek disgorgement from Debtor's firm (of authorized postpetition distributions from the retainer account) than it would seek disgorgement from one of

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Debtor's utilities (of authorized postpetition utility payments). In any event, whatever the parties' interpretations of the representations on 5/7/19, the issue is too remote for either party to be expending any substantial attorney fees on it at this time.

Cathay Bank has its security interest in the accounts receivable that existed as of the petition date, and it has replacement liens in ongoing accounts receivable. Debtor believes the bank will be paid in full out of those things. But as adequate protection (11 U.S.C. 361, 363(e) & 552(b)) the bank has replacement liens in Debtor's real estate - to cover both (i) any diminution in the value of its security interest in the accounts receivable as of the petition date and (ii) any diminution in the value of its purported security interest in the retainer as of the petition date. Therefore the bank's and Debtor's rights are both reserved, and neither party should be spending much time on this issue. Any attorney fees spent arguing about this issue are subject to this Court's review for reasonableness (under 11 U.S.C. 330 and 331 for Debtor's counsel, and under 11 U.S.C. 506(b) for Cathay Bank's counsel).

(b) Application to employ real estate broker (dkt. 164)

The tentative ruling is, with one exception, to overrule the objection of Cathay Bank (dkt. 199), based on Debtor's reply (dkt. 214). The exception is that, although Debtor has presented evidence of the reasonableness of the broker's proposed commission and experience, and this Court generally should defer to Debtor's business judgment, Cathay Bank makes a good point that the real estate at issue ranges broadly from a single family residence to commercial property etc., and there is insufficient evidence of the proposed broker's specific experience as to each type of real estate. The tentative ruling is to set a **deadline of 5/24/19** for Debtor to file and serve a supplemental declaration detailing such experience, with a **deadline of 5/29/19** for any supplemental objection by Cathay Bank, and a continued hearing (if there is any such objection) concurrent with the continued status conference (see below).

As for disinterestedness (11 U.S.C. 101(14), 327(a)), Cathay Bank argues that the broker is not disinterested because, from the information on the docket, it appears that one of its alleged employees (Mr. Akbari) is a relative by marriage of one of Debtor's principals, and the principals are beneficiaries of a trust that engaged in prepetition transactions with Debtor that, according to the bank, violated Debtor's covenants with the bank. On

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the one hand, it is true that Mr. Akbari previously declared that he was "employed" by the broker (dkt. 77, p.1:22).

On the other hand, this Court interprets that as an (unfortunately) imprecise description of his arrangement as an independent contractor. Alternatively, even if he is an employee, this Court is not persuaded that this disqualifies the broker from employment by the estate.

Mr. Akbari apparently is married to the sister of the wife of one of Debtor's officers/control persons. The tentative ruling is that this makes him related "by affinity or consanguinity" within the fourth degree (1.officer - 2.spouse - 3.sister of spouse - 4.Mr. Akbari), so he is not a "relative" within the meaning of 11 U.S.C. 101(45) and therefore he is not an "insider" within the meaning of 11 U.S.C. 101(31)(B)(vi) or (E). That is not dispositive, because, the statutory list of insiders "includes" but is not limited to the listed examples. See 11 U.S.C. 102(3). But the tentative ruling is that the connection has been sufficiently disclosed (Rule 2014, Fed. R. Bankr. P.) and is not disqualifying.

In practical terms, this Court does not perceive that any alleged ties between the proposed real estate broker and Debtor's principal creates any incentive to lessen the price obtained for the real estate, or otherwise prejudice the interests of the bankruptcy estate. Accordingly, the tentative ruling is to approve the employment, subject to satisfactory supplemental evidence as set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: The tentative ruling is to vacate any deadline to file a proposed plan and disclosure statement, given the current posture of this case.

(c) Continued status conference: 6/4/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 5/7/19:
Appearances required.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week without further authorization of this Court. (To be clear: if Debtor in its business judgment believes that it must incur more than that amount of professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

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(c) Cathay Bank's adequate protection: replacement liens v. cash payments

The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral

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or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate declaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not

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apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets,

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so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further

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extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (see, e.g., *In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (e.g., were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

2:00 PM

CONT...

Schaefer Ambulance Services, Inc

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19

Docket 1

Tentative Ruling:

Tentative Ruling for 6/18/19:

Continue as set forth below (to be concurrent with the Motion for 363 Sale and Stipulation (dkt. 860, 864)).

Appearances are not required on 6/18/19.

(1) Current issues.

This Court has reviewed the latest filed documents, and is not aware of any issues that would warrant a status conference at this time.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 7/2/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, June 18, 2019

Hearing Room 1545

2:00 PM

CONT... Dana Hollister

Chapter 11

Tentative Ruling for 5/28/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Motion re Insurance Financing (dkt. 839)

Debtor's declaration of service (dkt. 844) is insufficient. The declarant states that "All parties on the Court-approved short service list and the United States Trustee [were] served by U.S. mail" (id., p.2, para.3) but there is no attached "short service list" with addresses (as required by both the rules and the mandatory form of proof of service, see *id.*, p.3, para.2). The tentative ruling is to grant the motion contingent on filing an amended declaration of service that includes the missing list.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/18/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Continue as set forth below (to be concurrent with Debtor's premium financing motion (dkt. 839, 841)). This Court anticipates further continuing this status conference at a later date, per Debtor's request in the status report (dkt. 836). Appearances are not required on 5/21/19.

(1) Current issues.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 18, 2019

Hearing Room 1545

2:00 PM

CONT...

Dana Hollister

Chapter 11

This Court has reviewed the latest filed documents, and is not aware of any issues that would warrant a status conference at this time.

(2) Deadlines/dates.

This case was filed on 3/6/18.

- (a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)
- (b) Plan/Disclosure Statement*: TBD.
- (c) Continued status conference: 5/28/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Sale procedures motion, re leasehold interest in 1629 Griffith Park Blvd. (dkt. 778)

Grant, with a reservation of all rights for the Presbytery of the Pacific (the "Presbytery") with respect to any objection to the sale motion, including but not limited to any objection to assumption and assignment of the leasehold and Debtor's development and guaranty obligations. In addition, the parties are directed to address the deadline(s) and procedures for any objections by the Presbytery, given the short time between the proposed auction date (6/25/19), any filing of evidence of assurance of future performance, and the proposed sale hearing date (7/2/19). See dkt. 815, p.9, n.4.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, June 18, 2019

Hearing Room 1545

2:00 PM

CONT...

Dana Hollister

Chapter 11

In addition, the proposed notice (dkt.815, Ex.2) must specify that the hearing time is 2:00 p.m. (on 7/2/19). See *id.*, p.74, section VIII (entitled "Sale Hearing"). In addition, the proposed notice should be amended to clarify that any Backup Bid will be not just the "next highest" but the "next highest and best" bid after the Successful Bid (as determined by the Agent after consultation with Debtor and confirmation by this Court).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/21/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, June 20, 2019

Hearing Room 1545

10:00 AM

2:19-16825 Ashley Susan Aarons

Chapter 13

#1.00 Hrg re: Motion Of Alliance Portfolio, Private Equity Finance, Inc. To Dismiss Or Convert Chapter 13 Case Pursuant To 11 U.S.C. Section 109(e) And For Cause Including For Bad Faith Filing Under 11 U.S.C. Section 1307(c)

Docket 7

Tentative Ruling:

Subject to any oral opposition and reply at the hearing, the tentative ruling is to grant the motion and, if Debtor appears and is willing and able to prosecute a reorganization then convert this case to chapter 11, and otherwise dismiss this case with a 180-day bar under 11 U.S.C. 109(g) for failure to appear in proper prosecution of this case, all based on the best interests of creditors and also Debtor. See Order Shortening Time ("OST," dkt. 11), and 11 U.S.C. section 1307(c)&(d). Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

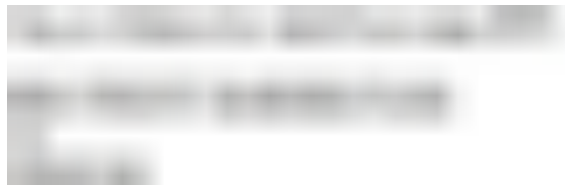
Hearing Room 1545

10:00 AM

2:18-18060 Magdalena Avila

Chapter 13

#1.00



Docket No: 44

Tentative Ruling:



**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Magdalena Avila

Chapter 13



Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

BBV profit sharing plan

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

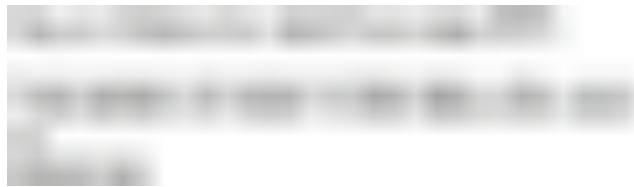
Hearing Room 1545

10:00 AM

2:18-24113 Nancy Joe Taylor

Chapter 13

#2.00



Docket No: 30

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Nancy Joe Taylor

Represented By
Nicholas M Wajda

Movant(s):

The Bank of New York Mellon, et al

Represented By
Bonni S Mantovani
Asya Landa

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:18-24431 Cheryl Hattie Williams

Chapter 13

#3.00



Docket No: 27

Tentative Ruling:



Party Information

Debtor(s):

Cheryl Hattie Williams

Represented By
Sam Benevento

Movant(s):

BankUnited N.A.

Represented By
Asya Landa

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

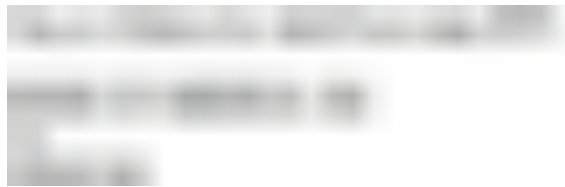
Hearing Room 1545

10:00 AM

2:19-10007 Natarajan Srinivasan

Chapter 13

#4.00



Docket No: 24

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Natarajan Srinivasan

Represented By
Jeffrey N Wishman

Movant(s):

Bank of America, NA

Represented By
Robert P Zahradka
Nathan F Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

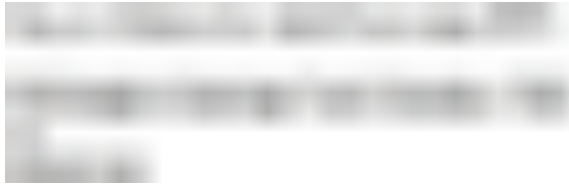
Hearing Room 1545

10:00 AM

2:19-11304 Robert John Castillo

Chapter 13

#5.00



Docket No: 34

Tentative Ruling:



Party Information

Debtor(s):

Robert John Castillo

Represented By
Axel H Richter

Movant(s):

Wilmington Savings Fund Society, FSI

Represented By
Diana Torres-Brito

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

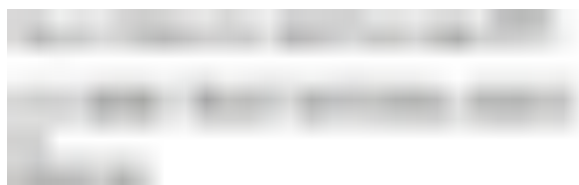
Hearing Room 1545

10:00 AM

2:19-10005 Luis Alberto Bravo

Chapter 7

#6.00



Docket No: 67

Tentative Ruling:



Party Information

Debtor(s):

Luis Alberto Bravo

Represented By
Brad Weil

Movant(s):

U.S. Bank Trust National Association a

Represented By
Kristin A Zilberstein

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Luis Alberto Bravo

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

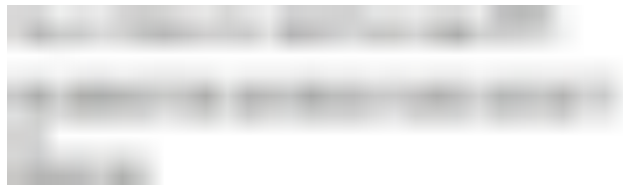
Hearing Room 1545

10:00 AM

2:19-10005 Luis Alberto Bravo

Chapter 7

#7.00



Docket No: 71

*** VACATED *** REASON: Amended notice filed on 6/18/19,
rescheduled to 7/9/19 at 10:00 a.m. [dkt. 81]

Tentative Ruling:



Party Information

Debtor(s):

Luis Alberto Bravo

Represented By
Brad Weil

Movant(s):

Wilmington Savings Fund Society, FSI

Represented By
Edward G Schloss

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

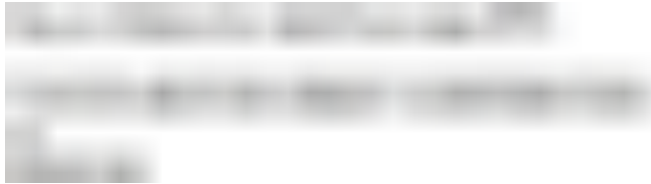
Hearing Room 1545

10:00 AM

2:14-31310 Jose W. Henriquez and Glenda P. Henriquez

Chapter 13

#8.00



Docket No: 97

Tentative Ruling:



**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Jose W. Henriquez and Glenda P. Henriquez

Chapter 13

Party Information

Debtor(s):

Jose W. Henriquez

Represented By
Michael A Rivera - INACTIVE -

Joint Debtor(s):

Glenda P. Henriquez

Represented By
Michael A Rivera - INACTIVE -

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:18-19374 Mario Aguilar and Juana Rosaura Martinez Barron

Chapter 13

#9.00



Docket No: 30

Tentative Ruling:



Party Information

Debtor(s):

Mario Aguilar

Represented By
Barry E Borowitz

Joint Debtor(s):

Juana Rosaura Martinez Barron

Represented By
Barry E Borowitz

Movant(s):

ACAR Leasing LTD d/b/a GM Financi

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Mario Aguilar and Juana Rosaura Martinez Barron

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

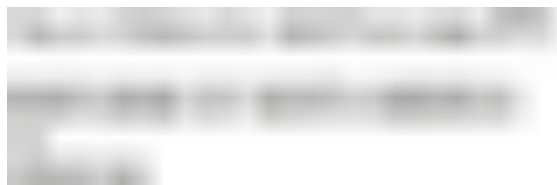
Hearing Room 1545

10:00 AM

2:19-13832 Annette Ardesho

Chapter 13

#10.00



Docket No: 15

*** VACATED *** REASON: Stipulation (dkt. 20) and order thereon

Tentative Ruling:



Party Information

Debtor(s):

Annette Ardesho

Represented By
Rabin J Pournazarian

Movant(s):

BMW Bank of North America

Represented By
Cheryl A Skigin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:19-15071 Rodney Lee Romo

Chapter 7

#11.00



Docket No: 8

Tentative Ruling:



**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Rodney Lee Romo

Chapter 7

Party Information

Debtor(s):

Rodney Lee Romo

Represented By
Nicholas M Wajda

Movant(s):

Fifth Third Bank

Represented By
Darren J Devlin

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:19-16545 Bianca Marie Aranda

Chapter 13

#12.00



Docket No: 16

Tentative Ruling:



United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT...

Bianca Marie Aranda

Chapter 13



Party Information

Debtor(s):

Bianca Marie Aranda

Represented By
William G Cort

Movant(s):

Bianca Marie Aranda

Represented By
William G Cort

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:15-23009 Terry Tramble

Chapter 13

#13.00



Docket No: 33

Tentative Ruling:



United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Terry Tramble

Chapter 13



Party Information

Debtor(s):

Terry Tramble

Represented By
John M Boyko

Movant(s):

WILMINGTON TRUST, NATIONAL

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#14.00



Docket No: 170

Tentative Ruling:



**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Glynder Lucas Striggs

Chapter 11



Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

Movant(s):

Santander Consumer USA Inc.

Represented By
Randall P Mroczynski

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

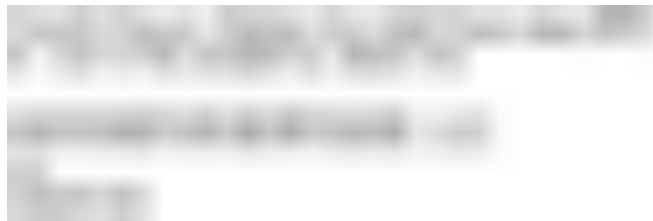
Hearing Room 1545

10:00 AM

2:18-18736 Raju Maity

Chapter 13

#15.00



Docket No: 36

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed on
05/20/19 (Dkt. 74)

Tentative Ruling:

Party Information

Debtor(s):

Raju Maity

Represented By
Sanaz S Bereliani

Movant(s):

Nationstar Mortgage LLC d/b/a Mr. Co

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:18-19093 Rodney Albert Gabriel, Jr

Chapter 13

#16.00



Docket No: 62

Tentative Ruling:



United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Rodney Albert Gabriel, Jr

Chapter 13



Party Information

Debtor(s):

Rodney Albert Gabriel Jr

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC d/b/a Mr. Co

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:17-25631 Uche Pearl Rodriguez

Chapter 13

#17.00

Docket No: 89

Tentative Ruling:



Party Information

Debtor(s):

Uche Pearl Rodriguez

Represented By
Anthony P Cara

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Uche Pearl Rodriguez

Chapter 13

Movant(s):

Uche Pearl Rodriguez

Represented By
Anthony P Cara
Anthony P Cara
Anthony P Cara

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

2:19-16825 Ashley Susan Aarons

Chapter 13

#18.00



Docket No: 7

Tentative Ruling:



**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

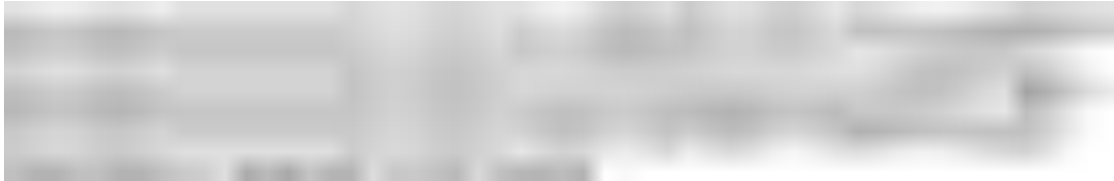
Tuesday, July 2, 2019

Hearing Room 1545

10:00 AM

CONT... Ashley Susan Aarons

Chapter 13



Party Information

Debtor(s):

Ashley Susan Aarons

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

11:00 AM

2:18-12881 Anh Tuan Tran

Chapter 7

#1.00



Docket No: 51

Tentative Ruling:



Party Information

Debtor(s):

Anh Tuan Tran

Represented By
Randy Chang

Trustee(s):

Elissa Miller (TR)

Represented By
Jeffrey I Golden
Reem J Bello

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

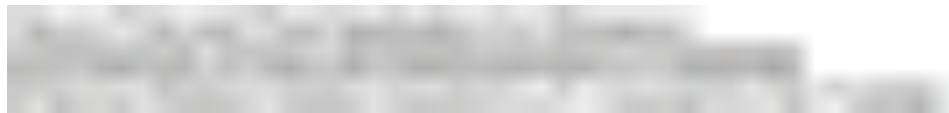
Hearing Room 1545

11:00 AM

2:18-12881 Anh Tuan Tran

Chapter 7

#2.00



Docket No: 47

Tentative Ruling:



Party Information

Debtor(s):

Anh Tuan Tran

Represented By
Randy Chang

Trustee(s):

Elissa Miller (TR)

Represented By
Jeffrey I Golden
Reem J Bello

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

11:00 AM

2:18-12881 Anh Tuan Tran

Chapter 7

#3.00



Docket No: 49

Tentative Ruling:



Party Information

Debtor(s):

Anh Tuan Tran

Represented By
Randy Chang

Trustee(s):

Elissa Miller (TR)

Represented By
Jeffrey I Golden
Reem J Bello

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

11:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

#4.00

Docket No: 1

Tentative Ruling:



Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

11:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01022 Avery v. Beverly Hills Bestfields Investments, Inc. et al

#5.00

Docket No: 1

Tentative Ruling:

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

Beverly Hills Bestfields Investments, Inc.

Represented By
Nami Kang

Accu-Test Structural Laboratories, Inc.

Pro Se

Thomas Kim, dba Global

Pro Se

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

11:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01023 Avery v. Kim et al

#6.00

Docket No: 1

Tentative Ruling:

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

Bon Koo Kim

Pro Se

Youngsook Kim

Pro Se

Ki Y Jang

Pro Se

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 2, 2019

Hearing Room 1545

11:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01116 Avery v. An

#7.00

Docket No: 1

Tentative Ruling:

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

Benjamin An

Represented By
Steven J Barkin

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

11:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01118 Avery v. King Star Security Patrol, Inc.

#8.00

Docket No: 1

Tentative Ruling:

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

King Star Security Patrol, Inc.

Represented By
Baird A Brown

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 2, 2019

Hearing Room 1545

11:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01117 Avery v. Corbel Architects, Inc.

#9.00

Docket No: 1

Tentative Ruling:

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

Corbel Architects, Inc.

Represented By
Matthew A Lesnick

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#1.00

Docket No: 15

*** VACATED *** REASON: Continued to July 9, 2019 at 9:00 a.m. [dkt. 68]

Tentative Ruling:

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#2.00

Docket No: 1

Tentative Ruling:



**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

1:00 PM

CONT... Unified Protective Services, Inc.

Chapter 11



**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

CONT... Unified Protective Services, Inc.

Chapter 11



Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:17-23714 Fargo Trucking Company, Inc.

Chapter 11

#3.00

Docket No: 382

*** VACATED *** REASON: Withdrawn [dkt. 386]

Tentative Ruling:

Party Information

Debtor(s):

Fargo Trucking Company, Inc.

Represented By
Vanessa M Haberbush
David R Haberbush
Lane K Bogard

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

Trustee(s):

Timothy J. Yoo

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:19-14137 Zeta Graff

Chapter 11

#4.00



Docket No: 28

***** VACATED *** REASON: Per ruling at the 6/4/19 status conference,
this motion no longer needs to be set for hearing**

Tentative Ruling:



Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

Movant(s):

Zeta Graff

Represented By
Michael Jay Berger
Michael Jay Berger
Michael Jay Berger

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

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1:00 PM

2:19-14137 Zeta Graff

Chapter 11

#5.00



Docket No: 67

Tentative Ruling:



Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

Movant(s):

Zeta Graff

Represented By
Michael Jay Berger
Michael Jay Berger
Michael Jay Berger

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:19-14137 Zeta Graff

Chapter 11

#6.00

Docket No: 64

Tentative Ruling:

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

Movant(s):

Zeta Graff

Represented By
Michael Jay Berger
Michael Jay Berger
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:19-14137 Zeta Graff

Chapter 11

#7.00

Docket No: 23

Tentative Ruling:

[REDACTED]

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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2:19-14137 Zeta Graff

Chapter 11

#8.00



Docket No: 1

Tentative Ruling:



**United States Bankruptcy Court
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CONT...

Zeta Graff

Chapter 11



**United States Bankruptcy Court
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CONT...

Zeta Graff

Chapter 11



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CONT...

Zeta Graff

Chapter 11



**United States Bankruptcy Court
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CONT...

Zeta Graff

Chapter 11



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Zeta Graff

Chapter 11



**United States Bankruptcy Court
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CONT...

Zeta Graff

Chapter 11



**United States Bankruptcy Court
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Zeta Graff

Chapter 11



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CONT...

Zeta Graff

Chapter 11



Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:18-16732 Motiv8 Investments, LLC

Chapter 11

#9.00



Docket No: 137

*** VACATED *** REASON: Case dismissed

Tentative Ruling:

Party Information

Debtor(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

Motiv8 Investments, LLC

Represented By
Lionel E Giron
Crystle Jane Lindsey

**United States Bankruptcy Court
Central District of California
Los Angeles
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2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#10.00



Docket No: 5

Tentative Ruling:



**United States Bankruptcy Court
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R44 LENDING GROUP, LLC a Delaware Limited Liabilit

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**United States Bankruptcy Court
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R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11



**United States Bankruptcy Court
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R44 LENDING GROUP, LLC a Delaware Limited Liabilit

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R44 LENDING GROUP, LLC a Delaware Limited Liabilit

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Central District of California
Los Angeles
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R44 LENDING GROUP, LLC a Delaware Limited Liabilit

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R44 LENDING GROUP, LLC a Delaware Limited Liabilit

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R44 LENDING GROUP, LLC a Delaware Limited Liabilit

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CONT...

R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11



Party Information

Debtor(s):

R44 LENDING GROUP, LLC a Delaw

Represented By
Jeffrey S Shinbrot

United States Bankruptcy Court
Central District of California
Los Angeles
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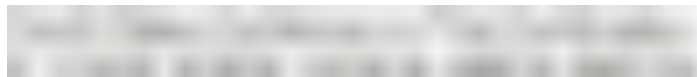
Hearing Room 1545

1:00 PM

2:17-15770 Steve O Chong and Edwina Theresa Chong

Chapter 11

#11.00



Docket No: 87

*** VACATED *** REASON: Order granting final decree and closing case
(dkt. 125)

Tentative Ruling:

Party Information

Debtor(s):

Steve O Chong

Represented By
Lionel E Giron
Kevin Tang
Crystle Jane Lindsey

Joint Debtor(s):

Edwina Theresa Chong

Represented By
Lionel E Giron
Kevin Tang
Crystle Jane Lindsey

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

Hearing Room 1545

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2:18-12453 Abelino Mariscal Gonzalez

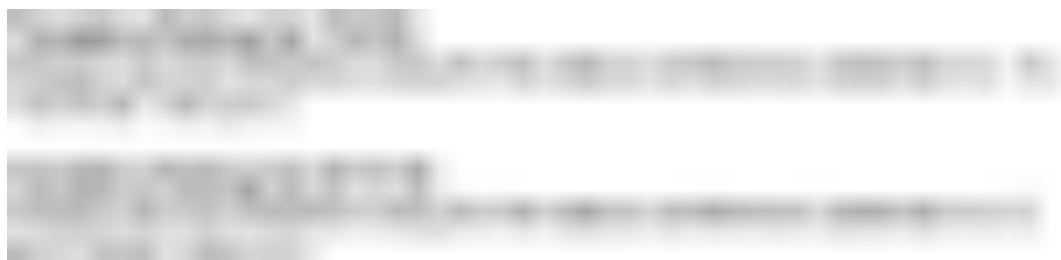
Chapter 11

#12.00



Docket No: 74

Tentative Ruling:



Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
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2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#13.00



Docket No: 7

Tentative Ruling:



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

Abelino Mariscal Gonzalez

Chapter 11



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

Abelino Mariscal Gonzalez

Chapter 11



**United States Bankruptcy Court
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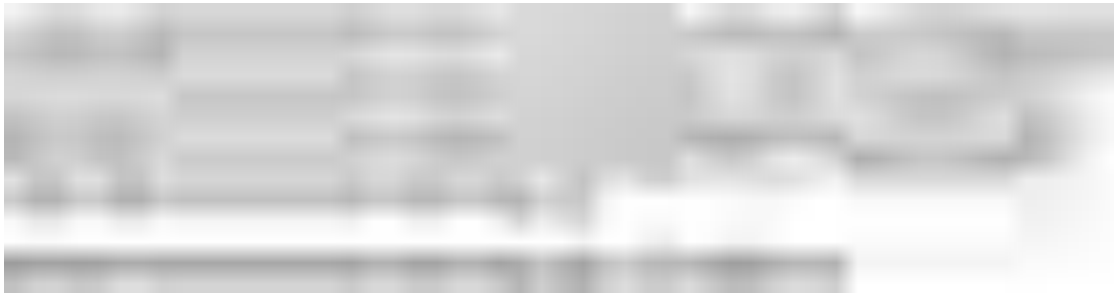
Hearing Room 1545

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CONT...

Abelino Mariscal Gonzalez

Chapter 11



Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
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Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

#14.00



Docket No: 75

Tentative Ruling:



Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 2, 2019

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1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

#15.00



Docket No: 7

Tentative Ruling:



**United States Bankruptcy Court
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CONT...

Patricia Ann Theus

Chapter 11



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CONT...

Patricia Ann Theus

Chapter 11



**United States Bankruptcy Court
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CONT...

Patricia Ann Theus

Chapter 11



**United States Bankruptcy Court
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Patricia Ann Theus

Chapter 11



**United States Bankruptcy Court
Central District of California
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Patricia Ann Theus

Chapter 11



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Patricia Ann Theus

Chapter 11



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Patricia Ann Theus

Chapter 11



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Patricia Ann Theus

Chapter 11



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Patricia Ann Theus

Chapter 11



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CONT...

Patricia Ann Theus

Chapter 11



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Patricia Ann Theus

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Patricia Ann Theus

Chapter 11



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CONT...

Patricia Ann Theus

Chapter 11



**United States Bankruptcy Court
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CONT...

Patricia Ann Theus

Chapter 11



**United States Bankruptcy Court
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CONT...

Patricia Ann Theus

Chapter 11



Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 2, 2019

Hearing Room 1545

1:00 PM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#16.00



Docket No: 1

Tentative Ruling:



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

Finnian Osakpamwan Ebuehi

Chapter 11



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

Finnian Osakpamwan Ebuehi

Chapter 11



Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST, OL

Pro Se

619 WEST GLADSTONE STREET TR

Pro Se

2551 YORKSHIRE WAY TRUST, OLI

Pro Se

1580 W. 2ND STREET TRUST, OLU

Pro Se

DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

United States Bankruptcy Court
Central District of California
Los Angeles
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2:18-20704 Finnian Osakpamwan Ebuehi

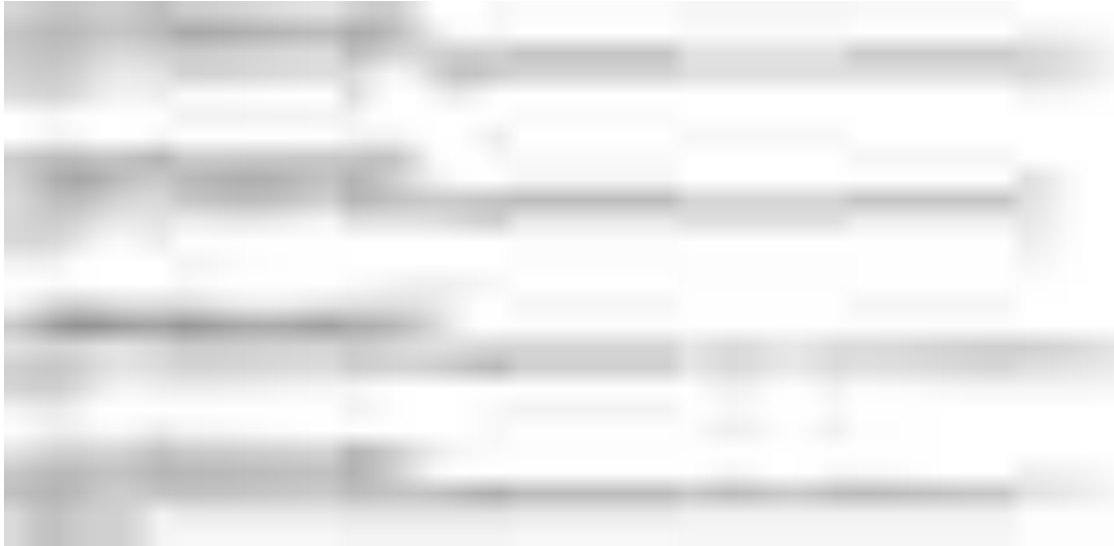
Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#17.00

Docket No: 16

Tentative Ruling:



Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT... **Finnian Osakpamwan Ebuehi** **Chapter 11**

Beta Alpha Holdings, LLC	Pro Se
Olesegun Adenowo	Pro Se
1518 WATERS AVENUE TRUST, OL	Pro Se
619 WEST GLADSTONE STREET TR	Pro Se
2551 YORKSHIRE WAY TRUST, OLI	Pro Se
1580 W. 2ND STREET TRUST, OLU	Pro Se
DOES 1 through 100, inclusive	Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi	Represented By Anthony Obehi Egbase
----------------------------	----------------------------------------

Movant(s):

Finnian Ebuehi	Represented By Anthony Obehi Egbase
Elizabeth Ebuehi	Represented By Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds Rafael R Garcia-Salgado
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United States Bankruptcy Court
Central District of California
Los Angeles
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2:18-20704 Finnian Osakpamwan Ebuehi

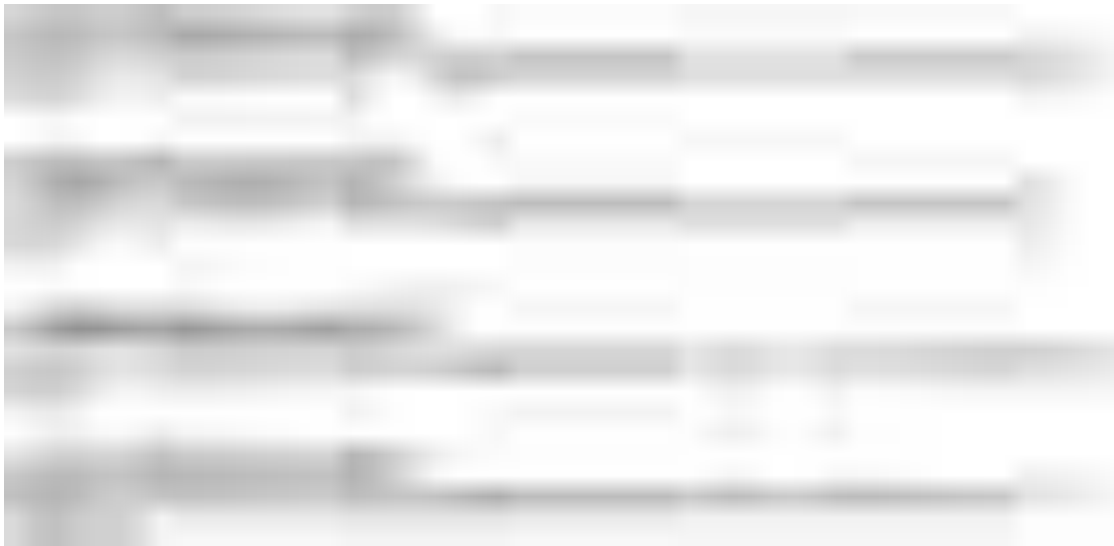
Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#18.00

Docket No: 13

Tentative Ruling:



Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
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CONT... Finnian Osakpamwan Ebuehi Chapter 11

Beta Alpha Holdings, LLC Pro Se

Olesegun Adenowo Pro Se

1518 WATERS AVENUE TRUST, OL Pro Se

619 WEST GLADSTONE STREET TR Pro Se

2551 YORKSHIRE WAY TRUST, OLI Pro Se

1580 W. 2ND STREET TRUST, OLU Pro Se

DOES 1 through 100, inclusive Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi Represented By
Anthony Obehi Egbase

Movant(s):

Poser Investments, Inc. Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

Plaintiff(s):

Poser Investments, Inc. Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

**United States Bankruptcy Court
Central District of California
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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11

#19.00



Docket No: 26

Tentative Ruling:



**United States Bankruptcy Court
Central District of California
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Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11



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CONT...

Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11



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Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11



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Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11



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Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11



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Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11



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Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11



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CONT...

Finnian Osakpamwan Ebuehi and Elizabeth Olohirere Ebuehi

Chapter 11



Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

United States Bankruptcy Court
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2:00 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01122 David K. Gottlieb, Chapter 7 Trustee v. Martin

#1.00

Docket No: 0

Tentative Ruling:

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb, Chapter 7 Trustee

Represented By
Monica Y Kim
Beth Ann R Young

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01106 David K. Gottlieb in his capacity as Chapter 7 Tru v. Roxe, LLC, a California lir

#2.00

Docket No: 0

Tentative Ruling:

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Roxe, LLC, a California limited liabilit

Represented By
Dawn M Coulson

Michael Martin an individual

Represented By
Dawn M Coulson

Doe 1 through DOE 10, inclusive

Pro Se

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb in his capacity as Ch

Represented By
Beth Ann R Young
Lindsey L Smith

Trustee(s):

David Keith Gottlieb (TR)

Represented By

**United States Bankruptcy Court
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CONT...

Duane Daniel Martin

Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

Chapter 7

United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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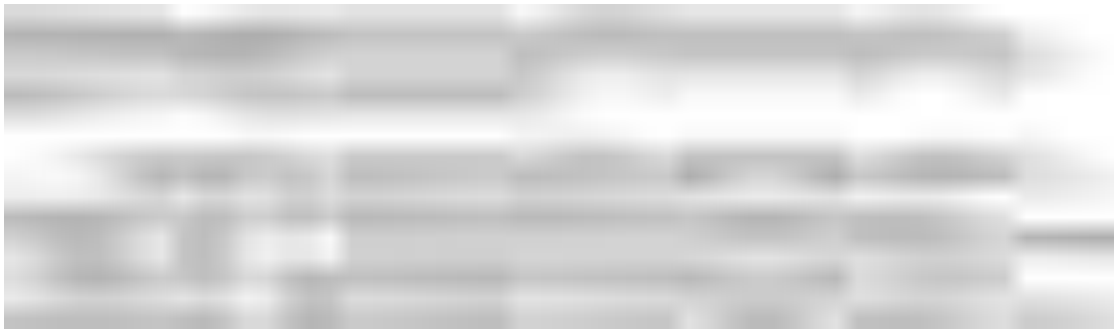
1:16-10045 Duane Daniel Martin and Tisha Michelle Martin

Chapter 7

#3.00

Docket No: 0

Tentative Ruling:



Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
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Hearing Room 1545

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#4.00

Docket No: 255

Tentative Ruling:

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

United States Bankruptcy Court
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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#5.00



Docket No: 190

***** VACATED *** REASON: Resolved per stipulation (dkt. 263) and order thereon (dkt. 270)**

Tentative Ruling:



Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Movant(s):

TCF EQUIPMENT FINANCE, a Divis

Represented By
Raffi Khatchadourian

**United States Bankruptcy Court
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Hearing Room 1545

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance Service, I

#5.10



Docket No: 10

Tentative Ruling:



Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a Ca

Represented By
Montserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Pro Se

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By

**United States Bankruptcy Court
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CONT... Schaefer Ambulance Service, Inc

Chapter 11

Frances M O'Meara

Plaintiff(s):

Cathay Bank, a California banking corp

Represented By
Michael G Fletcher
Reed S Waddell
Gerrick Warrington

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2:19-11809 Schaefer Ambulance Services, Inc

Chapter 11

#6.00



Docket No: 1

Tentative Ruling:



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Schaefer Ambulance Services, Inc

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Schaefer Ambulance Services, Inc

Chapter 11



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Chapter 11



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Chapter 11



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Chapter 11



Party Information

Debtor(s):

Schaefer Ambulance Services, Inc

Represented By
Craig G Margulies

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

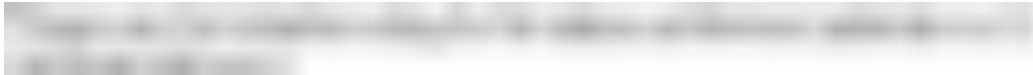
Chapter 11

#7.00



Docket No: 860

Tentative Ruling:



Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#7.10

Docket No: 876

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 2, 2019

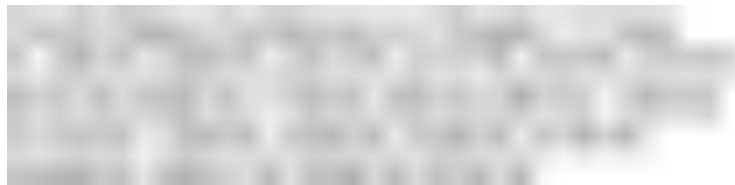
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2:18-12429 Dana Hollister

Chapter 11

#8.00



Docket No: 1

Tentative Ruling:



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CONT...

Dana Hollister

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Dana Hollister

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Dana Hollister

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CONT...

Dana Hollister

Chapter 11



Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
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Courtroom 1545 Calendar**

Tuesday, July 2, 2019

Hearing Room 1545

2:00 PM

2:17-22648 Checkmate King Co., LTD

Chapter 11

#9.00

■
[REDACTED]

Docket No: 299

Tentative Ruling:

[REDACTED]

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

**United States Bankruptcy Court
Central District of California
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2:17-22648 Checkmate King Co., LTD

Chapter 11

#10.00



Docket No: 1

Tentative Ruling:



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Checkmate King Co., LTD

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Checkmate King Co., LTD

Chapter 11



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Checkmate King Co., LTD

Chapter 11



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Checkmate King Co., LTD

Chapter 11



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CONT...

Checkmate King Co., LTD

Chapter 11



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Checkmate King Co., LTD

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Checkmate King Co., LTD

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Checkmate King Co., LTD

Chapter 11



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Checkmate King Co., LTD

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Checkmate King Co., LTD

Chapter 11



Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

**United States Bankruptcy Court
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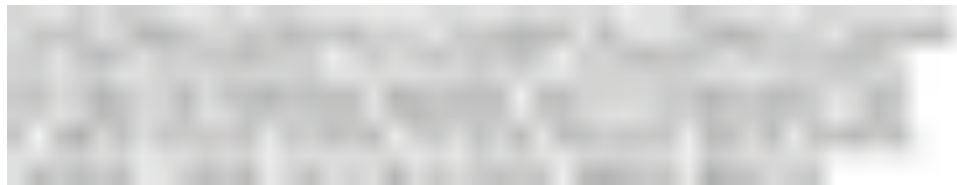
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2:17-22648 Checkmate King Co., LTD

Chapter 11

Adv#: 2:18-01062 Checkmate King Co., LTD v. Radiology Solutions Corp. et al

#11.00



Docket No: 1

Tentative Ruling:



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Checkmate King Co., LTD

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CONT... Checkmate King Co., LTD

Chapter 11



Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

Defendant(s):

Radiology Solutions Corp.

Represented By
Vatche Chorbajian

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CONT... Checkmate King Co., LTD

Chapter 11

George Tyler Fower

Represented By
Vatche Chorbajian

Siemens Medical Solutions USA Inc

Represented By
Marsha A Houston

Plaintiff(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 2, 2019

Hearing Room 1545

2:00 PM

2:17-22660 Yuichiro Sakurai and Akemi Sakurai

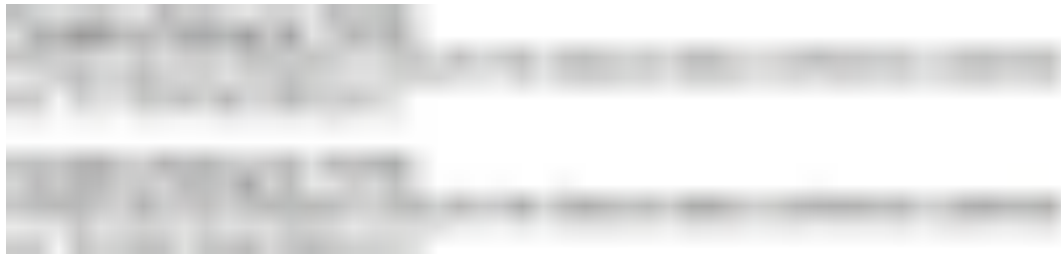
Chapter 11

#12.00



Docket No: 431

Tentative Ruling:



Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

**United States Bankruptcy Court
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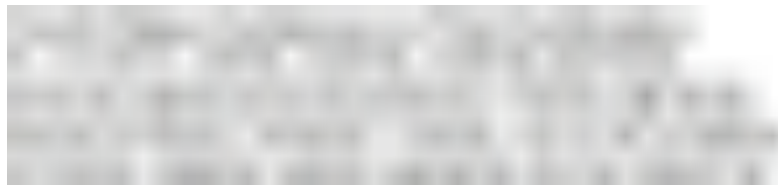
Hearing Room 1545

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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 11

#13.00



Docket No: 1

Tentative Ruling:



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Yuichiro Sakurai and Akemi Sakurai

Chapter 11



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Chapter 11



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Yuichiro Sakurai and Akemi Sakurai

Chapter 11



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CONT... Yuichiro Sakurai and Akemi Sakurai

Chapter 11



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Yuichiro Sakurai and Akemi Sakurai

Chapter 11



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Yuichiro Sakurai and Akemi Sakurai

Chapter 11



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Chapter 11



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Chapter 11



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CONT... Yuichiro Sakurai and Akemi Sakurai

Chapter 11



Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#14.00

Docket No: 43

Tentative Ruling:

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

#15.00



Docket No: 332

Tentative Ruling:



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David MacMillan

Chapter 7



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David MacMillan

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David MacMillan

Chapter 7



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David MacMillan

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David MacMillan

Chapter 7



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David MacMillan

Chapter 7



Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

#16.00

Docket No: 355

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#17.00

Docket No: 1

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
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Los Angeles
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Tuesday, July 2, 2019

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2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#18.00



Docket No: 53

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

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CONT... David MacMillan

Chapter 7

Movant(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

United States Bankruptcy Court
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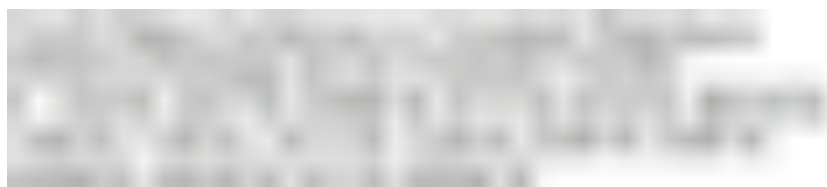
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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#19.00



Docket No: 1

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

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CONT... David MacMillan
Does I through XX

Pro Se

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Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#20.00

Docket No: 98

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#21.00



Docket No: 1

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
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Monday, July 8, 2019

Hearing Room 1545

9:00 AM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01122 David K. Gottlieb, Chapter 7 Trustee v. Martin

#1.00 Mediation hrg.

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb, Chapter 7 Trustee

Represented By
Monica Y Kim
Beth Ann R Young

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

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Monday, July 8, 2019

Hearing Room 1545

9:00 AM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01106 David K. Gottlieb in his capacity as Chapter 7 Tru v. Roxe, LLC, a

#2.00 Mediation hrg.

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Roxe, LLC, a California limited

Represented By
Dawn M Coulson

Michael Martin an individual

Represented By
Dawn M Coulson

Doe 1 through DOE 10, inclusive

Pro Se

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb in his capacity as

Represented By
Beth Ann R Young
Lindsey L Smith

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

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1:16-10045 Duane Daniel Martin and Tisha Michelle Martin

Chapter 7

#3.00 Mediation hrg.

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

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9:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#1.00 Cont'd hrg re: Motion for relief from automatic stay [RP]
fr. 6/18/19

BAKERS 26, LLC
vs
DEBTOR

Docket 6

Tentative Ruling:

Tentative Ruling for 7/9/19:

Please see the tentative ruling for the status conference (calendar no. 6, 7/9/19 at 9:00 a.m.)

Tentative Ruling for 6/18/19:

Grant this motion of Bakers 26, LLC ("Bakers") for relief from the automatic stay, as provided below, and overrule the opposition (dkt. 57), all subject to oral argument (see Order Shortening Time, "OST," dkt. 10). The tentative ruling is to excuse any lack of strict compliance with the OST because notice and service have been adequate under the circumstances. See dkt. 23, 42, 43. Appearances required.

Proposed order: Movant Bakers is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling - including the tentative rulings from Debtor's prior bankruptcy case (reproduced below) - thereby incorporating this tentative ruling as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Analysis, and termination of automatic stay

This Court is mindful of the fact that this matter is being heard on shortened time, early in this bankruptcy case. Nevertheless, on the present record, and subject to oral argument, the tentative ruling is to terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4), for the reasons set forth in the motion papers (dkt. 6-9) and the filed documents and this Court's

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CONT... JDS Hospitality Group, LLC

Chapter 11

records from Debtor's prior case combined with the lack of progress in this case.

(a) Evidentiary issues

The tentative ruling is to sustain Debtor's hearsay objection regarding the alleged basis for not renewing insurance (see dkt. 60) but otherwise accept the evidence of insurance cancellation for two reasons. First, it is part of Bakers' business to assure that its interests in the property are adequately protected by insurance, so the business records exception and the declarant's knowledge of the business establish that Debtor has not complied with requirements to provide Bakers with assurances of the maintenance of insurance. Rules 602 & 803(6) (Fed. R. Evid.). That is enough to shift the burden to Debtor to establish that it does, in fact, have adequate insurance. Second, and alternatively, Debtor does not appear to dispute the facts on which this Court is relying regarding insurance (see below).

The tentative ruling is to sustain Debtor's hearsay objection (dkt. 59) regarding the alleged basis for restricting Debtor's use of the central reservation system maintained by Days Inn Worldwide, Inc. ("Days Inn") - the alleged "four to five months" of missed payments - but otherwise accept the evidence that Debtor has been restricted in its use of Days Inn's system. The reasons are the same as stated above in connection with the evidence regarding insurance.

(b) Cause for relief

This Court is especially troubled by the following:

(i) Gap in insurance: see the tentative ruling for calendar no.16 (on this 10:00 a.m. calendar for 6/18/19);

(ii) Real estate taxes: Debtor's principal had promised to pay these taxes in the first bankruptcy case as part of the "adequate protection" to Bakers, but apparently those taxes were not paid then and the deficit has only gotten worse (see dkt. 6-2, Ex.18, at p.126), all of which means that any promises to provide "adequate protection" in this second bankruptcy case (e.g., the promise to pay \$15,000 per month; the assertion that Debtor's condition is improving rather than deteriorating; and the assertion that Debtor will have a viable exit strategy within a reasonable time) must be viewed with considerable skepticism;

(iii) Reservation system: Debtor apparently is restricted in its use of Days Inn's reservations system (dkt. 6-3, Ex.21, at p.189, and dkt. 57, p.3, para.3.c.(6));

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(iv) Property condition report: although this Court recognizes that the pool, hot tub, and other aspects of the property might not be as bad as suggested in the report (see dkt.57), there is still substantial evidence of dangerous conditions and deferred maintenance (see dkt. 6-4, Ex.22, at pp.211-74, and the additional photographs, *id.*, Ex.23, at pp.275-77) (see also the tentative ruling for Bakers' motion to dismiss this bankruptcy case, calendar no. 16 on this calendar for 10:00 a.m. on 6/18/19);

(v) Delay: Debtor's "first day" wage, cash collateral, and utility motions (dkt. 26-28 *et seq.*) were not filed until after 6:30 p.m. on 6/12/19, when the petition was filed on 6/7/19 - Debtor should have known from its prior bankruptcy case (Case No. 2:18-bk-22059-NB) the importance of providing information and coordinating with its attorneys to have those motions filed immediately, for the reasons set forth below;

(vi) Payroll: Debtor either has not made the 6/14/19 payroll - and the tentative ruling is that this would show gross mismanagement in not seeking this Court's approval early enough - or has paid employees for that payroll period without this Court's approval - which presumably includes at least some prepetition hours worked and therefore is an unauthorized payment of prepetition debt;

(vii) Cash collateral: Debtor either has not been using cash collateral - which would mean a lack of normal business operations - or has been using cash collateral without authorization (11 U.S.C. 363(c)); and

(viii) Lack of evidence: Debtor provides no evidence (x) of any currently pending offers for the hotel, or other progress in the various exit strategies it has had since commencement of its prior bankruptcy case over eight months ago, on 10/14/18 (Case No. 2:18-bk-22059-NB), (y) in support of its projected income and expenses (see Cash Collateral Budget, dkt.27, Ex.1), or (z) regarding the current state of its online bookings and its franchise with Days Inn (apart from acknowledging, vaguely, that there is a restriction on Debtor's use of its reservation system).

The tentative ruling is to grant the relief requested in the motion, as further set forth below, based on the foregoing and on the other matters addressed in the tentative ruling on Bakers' motion to dismiss this bankruptcy case (calendar no. 16 on this 10:00 a.m. calendar for 6/18/19). As to "*in rem*" relief in particular, the tentative ruling is that Bakers has met its prima facie burden of establishing the existence of a "scheme" to "hinder" or "delay" or "defraud" it, involving the prior bankruptcy case and this one. These two

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Chapter 11

bankruptcy cases have prevented Bakers from exercising remedies for a total of over eight months (since the filing of the prior bankruptcy case on 10/14/18); these cases have not been adequately prosecuted; and the tentative ruling is that those things have established a scheme to hinder and delay Bakers within the meaning of the statute.

(2) Standard terms

(a) Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(b) Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

(c) Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

(3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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**COPIES OF SELECTED TENTATIVE RULINGS FROM DEBTOR'S PRIOR
BANKRUPTCY CASE (Case No. 2:18-bk-22059-NB):**

Tentative Ruling for 5/7/19:

Appearances required.

(1) Current issues

(a) Motion of Baker 26, LLC ("Baker") to dismiss case (the "MTD," dkt. 117-131), Debtor's opposition (dkt. 138), and Baker's reply (dkt. 152)

Dismiss this case, without a bar. Under 11 U.S.C. 1112(b) this Court "shall" dismiss (or convert) this case for cause, with only limited exceptions. There does not appear to be any argument that conversion is practical, so the question is whether to dismiss.

(i) Insurance

One type of "cause" to dismiss is "failure to maintain appropriate insurance that poses a risk to the estate or to the public." 11 U.S.C. 1112(b)(4)(C). The MTD points out that Debtor's insurance is expiring very soon, and that there is no evidence of Debtor's financial ability to renew its insurance, or an insurer's willingness to do so. In response, Debtor asserts only that it currently has insurance - which is expiring on 5/25/19. See dkt. 138, at PDF p.17, para.27, *and* Ex.4 at PDF p.33. That is insufficient.

Debtor asserts (dkt. 138, at PDF p.17, para.28) that it is "finalizing" negotiations with prospective purchasers and intends to bring both a motion to sell the hotel property and an application to employ its real estate broker by the time of this hearing on the MTD. Theoretically, a pending sale might be one way of taking care of the insurance issue, because it might be grounds for this Court to find and specifically identify "unusual circumstances" establishing that dismissing this case is not in the best interests of creditors and the estate, if Debtor can establish "a reasonable likelihood that a plan will be confirmed ... within a reasonable period of time" and if Debtor establishes "reasonable justification" for the apparent failure to arrange for future insurance and establishes that insurance will be obtained "within a reasonable period of time fixed by the court." 11 U.S.C. 1112(b)(2). Presumably, the method of curing the lack of insurance from 5/25/19 forward would be that the purchaser would pay for that insurance; and presumably the proposed "plan" would be essentially to provide for distributing the proceeds

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of a sale under 11 U.S.C. 363.

The main problem with all of this is that Debtor is out of time: no application to employ any broker has been filed (let alone approved); and no 363 sale motion has been filed (let alone granted). That application and sale motion cannot reasonably be expected to be filed, served, heard, and granted, and the sale itself cannot be expected to close, all in the next two weeks and three days (before the existing insurance expires on 5/25/19).

Conceivably, Debtor's principal, Ms. Rhonda Chung, might be willing and able to fund the insurance (using funds from her 401(k) retirement account, or some other source, as she has done with some other expenses in the past). But Debtor has not suggested that any such funding is forthcoming; Debtor's principal apparently has not lived up to her commitment to pay real estate taxes (see below) so any mere promise to pay insurance would be inadequate on the present record; and in any event Debtor has not provided any evidence that an insurer is ready, willing, and able to extend future insurance.

For all of these reasons, it appears that this Court has no choice. Congress has directed that this Court "shall" dismiss this case due to "failure to maintain" appropriate insurance. 11 U.S.C. 1112(b)(4)(C).

(ii) Taxes, adequate protection payments, losses, and management

Other types of cause for dismissal include failure to pay postpetition taxes, "gross mismanagement," failure to comply with an order of the court, or "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(I), (A), (B) & (E). The MTD alleges that Debtor has failed to pay postpetition taxes (see dkt. 131, p.3, para.7) and Debtor has not contested that issue (although, as noted above, Debtor's principal had promised to fund tax payments - see tentative ruling for 11/27/18, part "(1)(a)," reproduced below).

The MTD also alleges that Debtor has failed to pay several required "adequate protection" payments to Baker (or its predecessor in interest). See dkt. 131, pp. 4:27-5:16. Again, Debtor has not contested that issue.

As for "gross mismanagement" or "substantial or continuing loss" or "diminution," this Court previously has expressed concerns (both at hearings and in the tentative ruling for 2/5/19, part "(1)(a)," reproduced below). The MTD alleges (dkt. 131, p.4:1-21) that Debtor has lost over \$44,000 since this case was filed on 10/14/18, despite approximately \$41,000 in cash infusions

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by Debtor's principal. Again, Debtor has not contested this issue.

True, Debtor has shown a modest amount of improvement recently. In addition, this Court is not persuaded that a sale of property can never be a "rehabilitation" - to the contrary, Debtor alleges that it has engaged in both physical rehabilitation (repairing the premises, installing safety equipment, etc.) and management rehabilitation (terminating management that was embezzling, restoring online booking services, etc.), so the most significant issues appear to be (A) whether there is a "reasonable" likelihood that taxes will be paid and that the (modest) recent progress will offset the prior losses, and (B) whether there is sufficient "justification" (under 11 U.S.C. 1112(b)(2) (B)(i)) for prior failure to pay taxes, mismanagement, losses, and failure to comply with the budget approved by this Court's orders.

On the present record, the tentative ruling is that Debtor has not met its burden to provide evidence of those things. Debtor offers no justification for its principal not living up to her commitment to pay real estate taxes or for postpetition mismanagement by current management; and as noted above there is no section 363 sale motion on file, pursuant to which a purchaser might cure that non-payment or, perhaps, cure other issues.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

[OMITTED]

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Tentative Ruling for 3/5/19:
[OMITTED]

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #3, Dec. 2018, dkt. 71; Decl. dkt. 75)

Debtor's recently reported finances are dismal, as noted in the tentative ruling for 1/8/19. It appears that Debtor's occupancy rate is less than half of what was projected (which is itself less than half of available rooms), and that Debtor is failing to pay some franchise fees, utilities, housekeeping expenses, and other items.

Debtor blames outages in its online booking services, but as noted in the limited opposition to extending exclusivity (dkt. 78) filed by First Choice Bank, Debtor's behavior in the face of problems with online booking is puzzling. Why did Debtor not proactively contact the online booking agencies around the time it filed its bankruptcy petition? Why did Debtor not monitor its own finances sufficiently to realize that those agencies had not been paid? Debtor asserts that it was given no advance notice, but that seems highly unusual, so where is evidence of the telephone calls, emails, and letters immediately reacting, objecting to being cut off with no prior notice, and offering immediate payment of any missed bills? This Court takes judicial notice that the booking agencies are large enough to be familiar names, and presumably they have experienced hotel bankruptcies before, so what reasons did they give for their alleged lack of notice and over-reaction? As the bank suggests, the outages in booking were long enough that one would expect Debtor to have made repeated and considerable efforts to resolve the situation, possibly including meetings in person, but there is no evidence of that.

All of the foregoing suggests "gross mismanagement" of the estate, which is one possible basis to dismiss or convert this case. 11 U.S.C. 1112(b)(4)(B). The facts recited above also appear to constitute a "substantial" loss or diminution of the estate, and calls into question whether there is a "reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(A).

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In addition, these facts call into question whether Debtor will be able to meet the feasibility test for any proposed plan. 11 U.S.C. 1129(a)(11).

The parties are directed to address whether this case should be dismissed or converted.

(b) Alleged infusions

There have been promises during this case that cash infusions would be made by Debtor's principal, Rhonda Chung. The Status Report (dkt. 79, p.4:8-21) alludes to some, but the precise dollars amounts are generally unclear, as are the dates, and precisely how those dollars been used. The tentative ruling is to set a deadline of 2/12/19 (if this case is not dismissed) for Ms. Chung to file a declaration, with attached evidence, addressing each of these things.

(c) Employment of bankruptcy counsel (dkt. 47, 51, 56, 67, 68, 71)

Have the objections of the United States Trustee (dkt. 51) been resolved?

(c) Motion to Extend Exclusivity Periods (dkt. 73)

Debtor is directed to addressing the issues raised by First Choice Bank's Opposition (dkt. 78).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if

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advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Debtor's status report (dkt. 72) attempts to put the best face on a dismal record of recent operations. Should this Court set deadlines to sell the estate's property/business, or impose other performance metrics and establish consequences for failure to satisfy those metrics?

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

[OMITTED]

Tentative Ruling for 10/23/18:

[OMITTED]

Tentative Ruling for 10/17/18:

Appearances required.

(1) Current issues

(a) Payroll motion (dkt. 5). As noted in this Court's order setting this hearing (dkt. 10), this Court is concerned about whether this is a self-created

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emergency. In addition, the parties should be prepared to address the jobs of each person who is proposed to be paid (dkt. 7, Ex.6), whether any of them are "insiders" (11 U.S.C. 101(31)), and how they will be paid if the checks do not clear and other sources of revenue do not come through. Subject to adequately addressing those issues, and (1) confirming notice per this Court's order shortening time (dkt. 10), (2) addressing this Court's concerns in that order, and (3) any objections at the hearing, the tentative ruling is to grant this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt.4). The tentative ruling is to grant this motion, subject to the caveats set forth in the tentative ruling for calendar no. 2 (10/17/18 at 9:00 a.m.).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., *brief* status report due 11/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

Movant(s):

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Bakers 26, LLC

Represented By
Jacob L Eaton

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#2.00 Cont'd hrg re: Debtor's Emergency Motion for Order
Authorizing Use of Cash Collateral
fr. 6/18/19

Docket 27

Tentative Ruling:

Tentative Ruling for 7/9/19:

Please see the tentative ruling for the status conference (calendar no. 6, 7/9/19 at 9:00 a.m.)

Tentative Ruling for 6/18/19:

Deny this motion for use of cash collateral (dkt. 27) - for the reasons stated in the response (dkt. 56) of Bakers 26, LLC ("Bakers"), and the additional reasons stated in connection with Bakers' motion for relief from the automatic stay (calendar no. 12) and Bakers' motion to dismiss (calendar no. 16) - (1) all subject to any oral argument, opposition, and reply at the hearing, per this Court's order shortening time (dkt. 32), and (2) with the **exception of payroll**, as to which the tentative ruling is to authorize Debtor to use cash collateral to the extent this Court adheres to its tentative ruling to authorize the payment of payroll (see calendar no. 15. Appearances required).

Proposed order: Bakers is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating this tentative ruling as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

To the limited extent that the tentative ruling is to approve the use of cash collateral, such use is subject to replacement liens and other standard conditions as provided below. The tentative ruling is to find and conclude that such limited relief is necessary to avoid immediate and irreparable harm to the bankruptcy estate, and to creditors whose chances of repayment depend on maintaining whatever going concern value Debtor has. See Rule 4001(b)(2), 6003(b) (Fed. R. Bankr. P.).

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Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate

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documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such

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provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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#3.00 Cont'd hrg re: Debtor's Emergency Motion for Order (A) Prohibiting Utility Providers from Altering Refusing or Discontinuing Service, and (B) Establishing Procedures for Adequate Assurance of Payment Under Section 366 of the Bankruptcy Code fr. 6/18/19

Docket 28

Tentative Ruling:

Tentative Ruling for 7/9/19:

Please see the tentative ruling for the status conference (calendar no. 6, 7/9/19 at 9:00 a.m.)

Tentative Ruling for 6/18/19:

Deny this utility motion (dkt. 28) as moot, in view of the tentative rulings to grant relief from the automatic stand (calendar no. 12) and dismiss this bankruptcy case (calendar no. 16), all subject to oral argument including any opposition and reply, pursuant to this Court's order shortening time (dkt. 31). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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#4.00 Cont'd hrg re: Debtor's Emergency Motion for Order Authorizing Payment of Wages and Related Expenses fr. 6/18/19

Docket 26

Tentative Ruling:

Tentative Ruling for 7/9/19:

Please see the tentative ruling for the status conference (calendar no. 6, 7/9/19 at 9:00 a.m.)

Tentative Ruling for 6/18/19:

Grant this payroll motion (dkt. 26) in part and deny it in part as set forth below, all subject to oral argument including any opposition and reply, as authorized by this Court's order shortening time (dkt. 33). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The tentative ruling is to authorize the payment of the 6/14/19 payroll and benefits for non-insiders as set forth in Exhibit 1 to the motion (dkt. 26). The tentative ruling is to find and conclude that such relief is necessary to avoid immediate and irreparable harm to the bankruptcy estate, and to creditors whose chances of repayment depend on maintaining whatever going concern value Debtor has. See Rule 4001(b)(2), 6003(b) (Fed. R. Bankr. P.).

To the extent the motion seeks any other relief (e.g., payment of insiders), the tentative ruling is to deny such relief for lack of sufficient justification. See the tentative rulings on the motion of Bakers 26, LLC ("Bakers") for relief from the automatic stay (calendar no. 12) and to dismiss this case (calendar no. 16).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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#5.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
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Tentative Ruling:

Tentative Ruling for 7/9/19:

Please see the tentative ruling for the status conference (calendar no. 6, 7/9/19 at 9:00 a.m.)

Tentative Ruling for 6/18/19:

Appearances required.

(A) Dismiss this case under 11 U.S.C. 1112 and (B) impose a 180-day bar for willful failure to appear "in proper prosecution of the case" under 11 U.S.C. 109(g)(1). This Court has reviewed the opposition papers (dkt. 58), and this tentative ruling is subject to oral argument at the hearing. See Order Shortening Time (dkt. 17), p.3. The tentative ruling is to excuse any lack of strict compliance with the OST because notice and service have been adequate under the circumstances. See dkt. 23, 42, 43.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis

The tentative ruling is that the following alternative grounds exist for the relief sought in the motion papers. This Court is mindful of the fact that this matter is being heard on shortened time, early in this bankruptcy case. Nevertheless, on the present record, and subject to oral argument, the tentative ruling is to dismiss this case and impose a 180-day bar.

(1) Insurance ((b)(4)(C))

In Debtor's prior bankruptcy case (Case No. 2:18-bk-22059-NB), there was evidence that insurance was expiring on 5/25/19. See *id.* dkt. 138, at

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PDF p.17, para.27, and Ex.4 at PDF p.33 (filed 4/23/19). Debtor therefore not only should have foreseen the need to arrange in advance for new insurance, it was on actual notice, over a month in advance, that this could be a problem.

But there is evidence that Debtor's insurance was canceled effective 5/25/19 (as to its commercial package coverage) and 6/1/19 (as to excess liability) (dkt. 6-2, Ex.17, at pp.124-25). In this current bankruptcy case, Debtor asserts that as of 6/14/19 it has obtained insurance (see Debtor's Opp., dkt. 58, p.4:14-21). Notably absent is any denial by Debtor that it had a gap in insurance coverage from 5/25/19 through 6/14/19.

True, the current insurance coverage apparently was made retroactive to 5/25/19. See dkt. 58, R. Chung Delc., para.19 & Ex.3. But if any significant loss had occurred during the gap before replacement insurance was obtained, Debtor ran the (very substantial) risk of not being able to obtain any insurance coverage. That gap period extended after the petition date of 6/7/19 until 6/14/19 - *i.e.*, for a postpetition period of seven days.

This Court recognizes that Debtor filed this bankruptcy case on 6/7/19 because of the impending 6/10/19 foreclosure sale. But whatever pressures Debtor may have had, that does not excuse the lack of insurance.

The tentative ruling is that in a hotel with dozens if not hundreds of guests, fourteen days, including seven days postpetition, is a substantial period of time to go without insurance coverage. The tentative ruling is that such a gap in coverage imposes a substantial risk on the public and the estate, which is cause to dismiss. 11 U.S.C. 1112(b)(4)(C).

In addition, given the amount of notice that Debtor had of the need to address insurance, the tentative ruling is that Debtor's failure to obtain insurance and its decision to file this bankruptcy case without such insurance appears to be a willful failure to appear in "proper" prosecution of this case. To be clear, this Court's tentative ruling is not that Debtor would have elected to run the risk of not having insurance given a complete freedom of choice; but it appears that Debtor willfully elected not to take whatever steps were necessary to assure insurance until it turned out to be too late to avoid a gap in coverage. The tentative ruling is that this is willful failure to appear in proper prosecution of this case, which is cause to impose a 180-day bar. 11 U.S.C. 109(g)(1).

The foregoing tentative rulings are reinforced by Debtor's history in its prior bankruptcy case of not being proactive, or even adequately reactive, in

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managing the online bookings fiasco. That situation is summarized in the tentative rulings for that prior case (reproduced in this case within the tentative ruling for calendar no.12, 6/18/19 at 10:00 a.m.).

As in that situation (involving bookings), Debtor should have foreseen in this situation (involving insurance) the need to be proactive. Failing that, at the very least Debtor should have been adequately reactive once the issues had been flagged for Debtor. Insurance was flagged on 4/23/19, and in this Court's tentative ruling (later adopted as the final ruling) regarding dismissal of the prior bankruptcy case. See Case No. 2:18-bk-22059-NB, dkt. 138 (at PDF p.17, para.27, and Ex.4 at PDF p.33) and dkt. 156 (dismissal order). Debtor has not offered any explanation for being unable to maintain insurance despite such notice.

(2) Gross mismanagement ((b)(4)(B))

The tentative ruling is that Debtor's handling of the insurance matter (described above) is sufficient to establish a *prima facie* showing of gross mismanagement. That shifted the burden to Debtor to rebut that showing, but Debtor has not done so.

In addition, the tentative ruling is that Bakers has submitted sufficient evidence that (a) the property has physically been allowed to fall into a state of disrepair, (b) Debtor's reservation system is subject to (unspecified) restrictions, and (c) Debtor's exit strategy continues to be vague and uncertain. That shifts the burden to Debtor to overcome the appearance that there is gross mismanagement.

Debtor argues that Bakers' evidence of the dilapidated state of the property is "stale," that Debtor's physical condition has been improving, that its projected revenues are healthy, and that it has prospective buyers and a prospective investor. This Court has heard that story before from this Debtor.

(a) Physical condition of the property

Although this Court recognizes that the pool, hot tub, and other aspects of the property might not be as bad as suggested in the report prepared for Bakers (see dkt.57), there is still substantial evidence of dangerous conditions and deferred maintenance (see dkt. 6-4, Ex.22, at pp.211-74, and the additional photographs, *id.*, Ex.23, at pp.275-77). Debtor's opposition papers do not include any specific information about what Debtor is doing to address these issues.

Debtor provides only vague and sweeping assertions that the property

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was allowed by previous owners to fall into a bad state and that Debtor has been improving the property. Such assertions appear to be contrary to the only evidence before this Court of Debtor's past expenditures: its monthly operating reports from its prior case, which do not appear to reflect any restoration of the property and, if anything, appear to be more consistent with ongoing deterioration.

(b) Reservation systems

There is evidence that Debtor's use of the Days Inn reservation system is restricted. Debtor provides no information about the nature of that restriction, how much impact that is having on Debtor's ability to generate revenues, what is being done to address the issue, or any other facts and circumstances.

This Court would expect capable and proactive management to present detailed information on these issues, to have strategies and tactics to address all of those things, to support their analysis and proposed approaches with evidence, and to present all of that to this Court as part of some "first day" motions (e.g., use of cash collateral to help remove some or all restrictions). Instead there is barely any recognition of the problem.

This is reminiscent of Debtor's fiasco with its online reservation systems (Expedia and Bookings.com) in its prior bankruptcy case, in which Debtor never provided any satisfactory explanation for failing to foresee the problem, failing to recognize it once it arose, or failing to act quickly and decisively enough once the problem was recognized. See the tentative ruling for Bakers' R/S Motion, calendar no. 12 on this 10:00 a.m. calendar for 6/18/19).

In this case Debtor reports vaguely that it is "working to resolve the [unspecified] restriction on its reservation system with Days Inn." Dkt. 57, Response to Bakers' R/S Motion, p.3, para. 3.c.(6). The tentative ruling is that the scant information is itself evidence of gross mismanagement.

(c) Debtor's vacillating and vague exit strategy

In the prior case Debtor repeatedly vacillated between purported sales opportunities and equity investment opportunities, but never produced evidence of any solid exit strategy. See, e.g., Bakers' Response re Cash Collateral (dkt. 56), pp.2:15-3:14 (citing and quoting from Debtor's vacillating statements). In this case Debtor has provided copies of two letters of intent ("LOI"), but the tentative ruling is that they are unconvincing.

The first LOI is for \$6.1 million, but it is dated 2/12/19 (dkt. 58, R.

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Chung Decl., Ex.1, at PDF pp.18-21); it required Debtor's signature by 2/19/19 (*id.* para.10) and in any event it was subject to a 45 day investigation period (*id.* para.3) which has long since expired. The second LOI is for \$5.1 million and is dated 3/29/19 (*id.*, Ex.2, at PDF pp.22-25); and it required Debtor's signature by 4/5/19 (*id.* para.10) which has long since expired.

(d) Lack of evidence of steps to improve cash flow

Despite Debtor's (unspecified) restrictions in use of the Days Inn reservation system, and despite the apparent lack of physical improvement in the property, Debtor's cash collateral motion includes relatively rosy projections of future cash flow. As Bakers argues (dkt. 11, 56), Debtor made rosy projections in its first bankruptcy case but ended up losing a substantial amount of money.

Debtor's projected income is just a series of seemingly random figures. Debtor offers no evidentiary support, and no explanation for any change from the first bankruptcy case except the vague assertion that Debtor's summer season will be busier.

In the prior bankruptcy case Debtor repeatedly anticipated better performance, including in the busier winter holiday season. Instead its performance was extremely bad. See tentative rulings from prior bankruptcy case, reproduced in tentative ruling for calendar no.12 (Bakers' R/S Motion).

Debtor's projected expenses also raise concerns (although at least they are listed and Debtor shows the calculation of projected net income). One problem is that the expenses appear to be reduced from what would be typical. Debtor omits any property taxes because those "are typically paid in April and December" and the cash collateral budget runs from June through November, 2019. See Cash Collateral Budget (dkt. 27, Ex.1). If the budget included such taxes, estimated by Debtor at \$30,000 (*id.*), Debtor's projected budget would be extremely "thin."

Debtor's insurance expense also appears to be lower than what Debtor typically would pay if its annual expenses were spread out evenly over 12 months. Debtor appears to have obtained insurance pursuant to California's "FAIR" program, with an initial payment of \$25,356.50 (see dkt. 58, R. Chung Decl., Ex.3, last page, at PDF p.34) - presumably either prepetition or from a non-Debtor source because no authorization was sought for such an expenditure. That insurance requires ongoing payments of \$6,250.00 per month (Cash Collateral Motion, dkt. 27, Ex.1). It is unclear whether Debtor can continue to afford such insurance. See also dkt. 56, p.4:9-23 (arguing

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that if Debtor has obtained insurance through the "FAIR" program - insurance of last resort - that is further evidence of Debtor's troubled condition).

The tentative ruling is that all of the foregoing adds up to present a picture that is very reminiscent of Debtor's first bankruptcy case. Debtor is making vague promises regarding (a) the physical condition of the property, (b) somehow addressing the restrictions in its use of the Days Inn reservation system, (c) some sort of exit strategy that might involve a sale or an equity investment, and (d) somehow increasing monthly gross income and minimizing monthly expenses, but there is a glaring absence of actual evidence and analysis of data to back up any of this.

In addition, as noted in the tentative ruling on Bakers' R/S motion (calendar no. 12, on this 10:00 a.m. calendar on 6/18/19), Debtor has failed to be proactive in obtaining authorization from this Court or payment of payroll on 6/14/19, or for the use of cash collateral, or other matters.

The tentative ruling is that Debtor's lack of proactive steps and evidence on all of the foregoing shows gross mismanagement within the meaning of 11 U.S.C. 1112(b)(4)(B).

(3) Loss/diminution and no reasonable prospects for rehabilitation ((b)(4)(A))

On the one hand, this Court is not currently persuaded that "rehabilitation," within the meaning of 11 U.S.C. 1112(b)(4)(A), can never include a process of "staunching the bleeding" in preparation for an orderly liquidation, even if that process involves substantial or continuing losses or a "diminution to the estate," as long as that process is calculated to preserve more value for creditors than other alternatives. The tentative ruling is that this can constitute a "rehabilitation" in preparation for a sale or other liquidation.

For example, if a hypothetical debtor were to diminish a \$1 million estate by spending \$100,000, but that would stabilize the estate at a value of \$900,000, and the alternatives would be a foreclosure sale or "fire sale" that would cause the estate to be worth only \$800,000, then the hypothetical debtor's expenditure of the \$100,000 to stabilize the estate could, in this Court's view, constitute a "rehabilitation." In other words, this Court is not persuaded that the statute would force this Court to convert or dismiss the case in such a situation, thereby harming creditors. To the extent the motion papers argue otherwise this Court is not persuaded. See Motion (dkt. 11) p.8:13-25 (citing *Loop Corp. v. U.S. Trustee*, 379 F.3d 511, 516 (8th Cir.

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CONT... JDS Hospitality Group, LLC

Chapter 11

2004), and *In re The Ledges Apts.*, 58 B.R. 84, 87 (Bankr. D.Vt. 1986)).

But on the present record there is no evidence that Debtor's prosecution of this case is likely to preserve more value for creditors than other alternatives. To the contrary, the decision to file this bankruptcy case and thereby stop the movant's foreclosure sale appears to have obstructed the best opportunity for someone (Movant, or another buyer at a foreclosure sale) to take charge of the subject property and immediately invest the funds and expertise needed to bring the property into a condition in which it could be safe and preserve its current value. Therefore the tentative ruling is that there is cause to dismiss this case under 11 U.S.C. 1112(b)(4)(A).

(4) Other "cause" to dismiss ((b)(1))

The tentative ruling is that there is persuasive evidence of non-payment of adequate protection payments and taxes in the first case, in violation of this Court's orders and Debtor's obligations under the Bankruptcy Code and, although that is not the same as such acts in this case (11 U.S.C. 1112(b)(4)(D),(E)&(I)), nevertheless it places a high premium on Debtor showing a different course of conduct in this second bankruptcy case. But the tentative ruling is that all of the matters addressed in this tentative ruling and in the tentative ruling for calendar no.12 are *prima facie* evidence that this case was not filed in good faith.

The tentative ruling is that such conduct establishes "cause" to dismiss this case within the meaning of 11 U.S.C. 1112(b)(1). See 11 U.S.C. 102(3) ("includes" and "including" are not limiting). In addition, the tentative ruling is that such conduct establishes a willful failure to appear in "proper" prosecution of this case within the meaning of 11 U.S.C. 109(g)(1) (emphasis added).

(5) Conclusion

The tentative ruling is that Movant has shown *prima facie* cause to dismiss this case and to impose a 180-day bar against being a debtor in any future bankruptcy case. The tentative ruling is that Debtor has not rebutted that showing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... JDS Hospitality Group, LLC

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#6.00 Cont'd status conference re: Chapter 11 case
fr. 7/2/19

Docket 15

Tentative Ruling:

Appearances required.

(1) Current issues

At the hearing on 6/18/19 this Court expressed considerable skepticism about whether creditors or this Court can place reliance on Debtor's existing management, or can expect any turn around in Debtor's performance. That skepticism was based on the history of Debtor's prior bankruptcy case and its complete failure in this case to take appropriate steps such as "first day" motions.

Nevertheless, this Court was persuaded to give Debtor one final opportunity to restructure its finances in a chapter 11 case, presumably either via (x) a proposed sale under 11 U.S.C. 363(b)&(f) or (y) a substantial equity infusion, which almost certainly would have to be combined with new management. This Court also: granted certain interim relief; prohibited any payments to insiders; and required Debtor to make an adequate protection payment to creditor Bakers 26, LLC ("Bakers") of \$20,000, no later than 7/1/19. See dkt. 63, 64, 65, 69, 70.

As of the preparation of this tentative ruling, the docket does not reflect any progress toward a 363 sale or a major equity infusion (or any other developments, except an objection to Debtor's utility motion, dkt. 80, which is addressed below). Accordingly, the tentative rulings are as follows.

(a) Bakers' Motion For Relief From The Automatic Stay ("R/S Motion," dkt.6)

Grant, including relief under 11 U.S.C. 362(d)(1) and (4), as set forth in the tentative ruling for 6/18/19 (see calendar no.1, 7/9/19 at 9:00 a.m.).

(b) Cash Collateral Motion (dkt. 27)

Deny any further authorization for use of cash collateral, except for (i) non-insider payroll and (ii) other necessary expenses for preserving the collateral during the transition period contemplated before dismissal (see

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Chapter 11

below). Any such use of cash collateral is conditioned on the prior written consent of each creditor holding a secured claim. It is contemplated that such use of cash collateral will be for purposes of preserving value during a transition from current management to a receiver and/or foreclosure.

(c) Utility Motion (dkt. 28)

Grant on a final basis, except that as to Souther California Gas Company ("SoCal Gas") such relief is conditioned on Debtor paying the requested deposit of \$3,825.00 in cash or cash equivalent, such that it is received by SoCal Gas no later than 7/11/19, otherwise SoCal Gas may terminate service pursuant to non-bankruptcy law. This Court recognizes that dismissal of this case may render this utility motion moot; but as set forth below this Court is also mindful that it may be appropriate to delay dismissal for a brief transition period, and to preserve the value of the estate it may be necessary to provide the requested security deposit during that time.

(d) Payroll Motion (dkt. 26)

Deny any remaining relief - *i.e.*, any payment to insiders (because all other persons have already been paid) - based on the insiders' failures to perform necessary and appropriate services in accordance with their duties as persons in control of a debtor-in-possession. Such failures include not seeking authorization for payroll in time for normal payroll processing, despite the insiders' knowledge of the importance of that duty from Debtor's prior chapter 11 case, which means either (i) payroll was delayed - which is very unfair to employees - or (ii) Debtor made payroll in violation of the Bankruptcy Code - which is gross mismanagement.

(e) Bakers Motion to Dismiss ("MTD," dkt. 11)

Grant, with a 180 day bar under 11 U.S.C. 109(g)(1), for willful failure to appear in proper prosecution of this case, for all the reasons stated in the tentative ruling for 6/18/19 (see calendar no. 5, 7/9/19 at 9:00 a.m.). This Court contemplates, however, that dismissal might be delayed by a few days or so, to enable an orderly transition in management from Debtor's current management to a receiver, or a purchaser at a foreclosure sale. The parties are directed to address that issue at the hearing. Meanwhile, Debtor's insiders are reminded again of their duties as fiduciaries for the benefit of creditors, and their counsel is directed no later than the hearing on 7/9/19 to remind them of such duties in writing.

(f) Status Report (dkt. 77)

The status report erroneously states that no budget motion is required

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Chapter 11

(please Judge Bason's posted Procedures, available at cacb.uscourts.gov, which state that budget motions are "[r]equired," without limiting such requirement to individuals). But, in view of the dismissal of this case, that issue is moot.

Proposed orders: Bakers is directed to lodge proposed orders on the R/S Motion and the dismissal motion via LOU within 7 days after the hearing date and attach a copy of the applicable tentative rulings from 6/18/19 and 7/9/19, thereby adopting them as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Debtor is directed to lodge proposed orders on each of the remaining motions, with the same instructions as to timing and content.

(2) Deadlines/dates. This case was filed on 6/7/19.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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Hearing Room 1545

10:00 AM

2:17-11163 Linet Morin

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

CITIBANK, NA.
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's late-filed response, dkt.36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Linet Morin

Represented By
Peter L Lago - SUSPENDED -

Movant(s):

Citibank, N.A., as Trustee, in trust

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:17-17631 James Gabriel Schuh

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

NEWREZ LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1)

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... James Gabriel Schuh

Chapter 13

Party Information

Debtor(s):

James Gabriel Schuh

Represented By
Jeffrey B Smith

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-22131 Felix Velazquez

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

PENNYMAC LOAN SERVICES, LLC
vs
DEBTOR

Docket 28

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Felix Velazquez

Chapter 13

Party Information

Debtor(s):

Felix Velazquez

Represented By
Kevin Tang

Movant(s):

PennyMac Loan Services, LLC

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:18-22228 Jaime Ortega and Luz Adriana Ortega

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

HOME POINT FINANCIAL CORPORATION
vs
DEBTOR

Docket 36

***** VACATED *** REASON: Continued per stipulation (dkt. 38) and
order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Jaime Ortega

Represented By
Devin Sawdayi

Joint Debtor(s):

Luz Adriana Ortega

Represented By
Devin Sawdayi

Movant(s):

Home Point Financial Corporation

Represented By
D Anthony Sottile
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-10005 Luis Alberto Bravo

Chapter 7

#5.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUNDS SOCIETY, FSB
vs
DEBTOR

Docket 81

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Luis Alberto Bravo

Chapter 7

Party Information

Debtor(s):

Luis Alberto Bravo

Represented By
Brad Weil

Movant(s):

Wilmington Savings Fund Society,

Represented By
Edward G Schloss

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-10007 Natarajan Srinivasan

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA, NA
vs
DEBTOR

Docket 27

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's late-filed response, dkt. 31).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Natarajan Srinivasan

Represented By
Jeffrey N Wishman

Movant(s):

Bank of America, N.A.

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-16516 Satinderjit Singh Chadha

Chapter 13

#7.00 **[CASE DISMISSED ON 6/19/19]**

Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Movant has Standing to Seek Relief from Stay.

Debtor attaches several letters in her opposition, which allege that Movant does not have standing to foreclose because the original mortgagor, Washington Mutual Bank, FA ("WAMU") allegedly sold the deed of trust and the note prior to being taken over by the FDIC. See dkt. 20 (amending dkt.19). Debtor bases this supposition on the fact that an officer of WAMU endorsed the promissory note in blank. See dkt. 20 at PDF pp.5-6,19&66; dkt.19 at PDF pp.3&13; *and* dkt. 13, Ex.1, p.5.

It is true that the motion papers do not assert that Movant has possession of the promissory note (see dkt. 13 at p.11), but Movant has provided evidence that it is an assignee of the deed of trust. Dkt. 13, ex. 3 at

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CONT... **Satinderjit Singh Chadha**

Chapter 13

PDF p. 30-31. That is sufficient for purposes of a motion for relief from the automatic stay. See *In re Gallagher*, 2012 WL 2900477 (Bankr. C.D. Cal.) (following *In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011)); *In re Dahl* (Case No. 2:11-bk-11028-NB), Memorandum Decision (dkt. 75) at 2 n. 1.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. Compare *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311) (different procedure required for such relief).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

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CONT... Satinderjit Singh Chadha

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Satinderjit Singh Chadha

Pro Se

Movant(s):

JPMorgan Chase Bank, National

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:19-16781 Walter Donzel Duarte

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

MILESTONE FINANCIAL, LLC
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below, primarily because (1) Debtor has not filed contribution declarations, with evidence of the contributors' willingness and ability to make sufficient contributions to support a feasible chapter 13 plan; (2) Debtor's hope of a refinance appears unrealistic; and (3) given the lack of apparent feasibility of this chapter 13 case, Movant has made a *prima facie* showing that Debtor and his mother have engaged in nothing more than a "scheme" to "delay" and "hinder" Movant's exercise of its remedies, involving multiple (two) bankruptcies, and alternatively involving a transfer in violation of the loan documents, and therefore "*in rem*" relief is appropriate. See dkt. 9, 18, 21. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Late-filed opposition

The tentative ruling is to excuse the lateness of the opposition papers because it is understandable for Debtor and his mother, having only recently retained present counsel, to need additional time to respond. See dkt. 19.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

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CONT... Walter Donzel Duarte

Chapter 13

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Walter Donzel Duarte Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Walter Donzel Duarte	Pro Se
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Movant(s):

Milestone Financial, LLC	Represented By Harris L Cohen
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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Los Angeles
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Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:19-15432 Angelo Louis Colon

Chapter 7

#9.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Angelo Louis Colon

Chapter 7

Party Information

Debtor(s):

Angelo Louis Colon

Pro Se

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-16732 Rodney Phillip Walker

Chapter 13

#10.00 Hrg re: Motion for relief from stay [UD]

GREG WALKER
vs
DEBTOR

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rodney Phillip Walker

Pro Se

Movant(s):

Greg Walker, Administrator of the

Represented By
Paul E Gold

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:19-16951 Vivian Izabel Lopez

Chapter 7

#11.00 Hrg re: Motion for relief from stay [UD]

WANG YANG ENTERPRISES LLC
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Existence of automatic stay

Deny the request for an order confirming that no stay is in effect. Movant cites 11 U.S.C. 362(b)(22) and (l) but those statutory provisions require a prepetition "judgment for possession" of the property, and there is no evidence of any such judgment. *Id.*

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue,

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CONT...

Vivian Izabel Lopez

Chapter 7

then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Vivian Izabel Lopez

Pro Se

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CONT... Vivian Izabel Lopez

Chapter 7

Movant(s):

Wang Yang Enterprises LLC

Represented By
Henry D Paloci

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:19-17045 Candy Dora Briseno

Chapter 13

#12.00 Hrg re: Motion for relief from stay [UD]

JOE ARAGON
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Evidence

This Court notes that the declaration attached to the motion is executed by Movant's attorney, not by anyone shown to have personal knowledge. Nevertheless, this Court has considered the key documents because there are no evidentiary objections. In future the movant's failure to complete the form properly may result in denial of the motion sua sponte.

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CONT... Candy Dora Briseno

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Candy Dora Briseno

Pro Se

Movant(s):

Joe Aragon

Represented By
Vic Rodriguez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#13.00 Hrg re: Motion for relief from stay [NA]

DANIEL TONTINI
vs
DEBTOR

Docket 230

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the motion (dkt.230) and the opposition papers filed by the Chapter 7 Trustee (dkt.233) and Debtor (dkt.236).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Movant(s):

Daniel Tontini

Represented By
Joel A Osman

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch

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10:00 AM

CONT...

Philip James Layfield

Beth Gaschen
Ryan W Beall

Chapter 7

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-16799 Chelsea Joi Garcia

Chapter 13

#14.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 13

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Chelsea Joi Garcia

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Chelsea Joi Garcia

Represented By
Allan S Williams

Movant(s):

Chelsea Joi Garcia

Represented By
Allan S Williams

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-16883 Pamela Golden-Rice

Chapter 13

#15.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 11

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Pamela Golden-Rice

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Pamela Golden-Rice

Represented By
David Samuel Shevitz

Movant(s):

Pamela Golden-Rice

Represented By
David Samuel Shevitz
David Samuel Shevitz
David Samuel Shevitz
David Samuel Shevitz
David Samuel Shevitz
David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-17174 Eric Benavides

Chapter 13

#16.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 8

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Eric Benavides Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Eric Benavides

Represented By
Scott Kosner

Movant(s):

Eric Benavides

Represented By
Scott Kosner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:19-16871 Adam Loy Thompson

Chapter 13

#17.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 16

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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Hearing Room 1545

10:00 AM

CONT... Adam Loy Thompson Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Adam Loy Thompson

Represented By
Aalok Sikand

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

10:00 AM

2:17-22639 Anna Kusnier

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/7/19

DEUTSCHE BANK NATIONAL TRUST COMPANY
VS
DEBTOR

Docket 66

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Anna Kusnier

Represented By
Julie J Villalobos

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:17-25005 Jose Luis Macias

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19, 6/18/19

21st MORTGAGE CORPORATION
VS
DEBTOR

Docket 58

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Jose Luis Macias

Represented By
Jaime A Cuevas Jr.

Movant(s):

21st Mortgage Corporation

Represented By
Diane Weifenbach
Rosaline S Ayoub

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:18-16458 Joseph Salazar

Chapter 13

#20.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/11/19

JPMORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 51

Tentative Ruling:

Tentative Ruling for 7/9/19 (same as for 6/11/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 53).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joseph Salazar

Represented By
Bryn C Deb

Movant(s):

JPMorgan Chase Bank, National

Represented By
Joseph C Delmotte
Arnold L Graff

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10:00 AM

CONT... Joseph Salazar

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:18-18942 Bonnie Monique Tann

Chapter 13

#21.00 **(Case Dismissed 05/21/19)**

Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 7/9/19:

Grant as provided below. At the hearing on 5/21/19 this Court was persuaded to continue this hearing for the parties to attempt to negotiate an adequate protection agreement. Meanwhile, however, this case has been dismissed. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

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10:00 AM

CONT... Bonnie Monique Tann
(3).

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

CONT... Bonnie Monique Tann

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Bonnie Monique Tann

Represented By
Devin Sawdayi

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:19-11063 Franklin Duell Kates

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/18/19

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 26

Tentative Ruling:

Tentative Ruling for 7/9/19:

Appearances required. At the prior hearing, the Court ordered Debtor make an adequate protection payment of \$882.46 by June 25, 2019. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current, (b) whether Debtor made the required adequate protection payment and/or (c) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 30).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/18/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 30).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
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Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

CONT... Franklin Duell Kates

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Franklin Duell Kates

Represented By
Barry E Borowitz

Movant(s):

The Bank of New York Mellon FKA

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:15-29161 Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/07/18, 10/2/18, 12/04/18, 12/18/18, 01/29/19,
03/05/19, 5/7/19

DEUTSCHE BANK TRUST COMPANY AMERICAS
vs
DEBTOR (S)

Docket 40

Tentative Ruling:

Tentative Ruling for 7/9/19 (same as for 5/7/19):

Deny as moot, in view of the parties' consensual resolution through their Court-approved loan modification (dkt. 47). Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19 (same as for 1/29/19):

Appearances required. At the hearings on 12/18/18, 1/29/19 and 3/5/19, this Court was persuaded to continue this matter for a possible finalization of a loan modification. There is no tentative ruling, but the parties should be prepared to address the status of the loan modification.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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Hearing Room 1545

10:00 AM

CONT... **Victor Hugo Anaya and Nora Leticia Anaya** **Chapter 13**

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Reason: At the 12/4/18 hearing, this Court set a deadline of 12/11/18 for Debtor to provide evidence in support of any further continuance and adequate protection, including evidence of the status of the attempted loan modification. Debtor did not file any evidence by the deadline.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

In view of the alleged equity in the property this Court grants the following limited relief to Debtor:

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3).

No foreclosure sale of the property may take place prior to 2/28/19.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

CONT... **Victor Hugo Anaya and Nora Leticia Anaya** **Chapter 13**

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/4/18 (same as for 10/2/18, and 8/7/18 except telephonic appearances encouraged):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Victor Hugo Anaya

Represented By
Erika Luna

Joint Debtor(s):

Nora Leticia Anaya

Represented By
Erika Luna

Movant(s):

Deutsche Bank Trust Company

Represented By
Sheereen Middleton

**United States Bankruptcy Court
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Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

CONT... Victor Hugo Anaya and Nora Leticia Anaya

Chapter 13

Keith Labell
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:16-18347 Diana Cazares

Chapter 13

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 30

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Diana Cazares

Represented By
Phillip Myer

Movant(s):

Deutsche Bank National Trust

Represented By
April Harriott
Sean C Ferry
Eric P Enciso

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 9, 2019

Hearing Room 1545

10:00 AM

2:17-21407 Jose G Garcia and Maria E. Garcia

Chapter 13

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19

BAYVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 49

Tentative Ruling:

Tentative Ruling for 7/9/19:

Appearances required. At the hearing on 5/21/19, this Court was persuaded to grant a continuance for a possible adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

**United States Bankruptcy Court
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Los Angeles
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Tuesday, July 9, 2019

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10:00 AM

CONT... **Jose G Garcia and Maria E. Garcia** **Chapter 13**
present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose G Garcia

Represented By
Julie J Villalobos

Joint Debtor(s):

Maria E. Garcia

Represented By
Julie J Villalobos

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 9, 2019

Hearing Room 1545

11:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#1.00 Cont'd hrg re: Motion for Substantive Consolidation of the Estate of the Debtor and Nondebtor Spouse Amos Q. Wellington fr. 6/12/18, 07/17/18, 10/16/18, 03/12/19, 4/9/19, 05/21/19

Docket 43

Tentative Ruling:

Tentative Ruling for 7/9/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether the sale of the property has closed, in light of this Court's order granting the Chapter 7 Trustee's sale motion (dkt. 161).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Continue this hearing to 7/9/19 at 11:00 a.m. to complete the sale of the property underlying the parties' disputes (see dkt. 86, 94, 98, 100, 114, 135, 136). Appearances are not required on 5/21/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Continue this hearing to 5/21/19 at 11:00 a.m. to complete the sale of the

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Tuesday, July 9, 2019

Hearing Room 1545

11:00 AM

CONT... **Letitia Louise Wellington**

Chapter 7

property underlying the parties' disputes (see dkt. 86, 94, 98, 100, 114, 135, 136). Appearances are not required on 4/9/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18 (same as for 7/17/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 7/17/18 and 6/12/18 hearings, this Court continued the matter for the parties to explore various options. There is no tentative ruling, but the parties should be prepared to inform the Court about the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the papers (dkt. 43, 56, 57).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
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Los Angeles
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Tuesday, July 9, 2019

Hearing Room 1545

11:00 AM

CONT... Letitia Louise Wellington

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

Michael D. Madison Sr.

Represented By
Stella A Havkin

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 16, 2019

Hearing Room 1545

11:00 AM

2:16-17461 Richard A Sorci and Judy E Sorci

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Timothy Yoo, Chapter 7 trustee]

Docket 242

***** VACATED *** REASON: Cont'd to 7/30/19 at 11:00 a.m. [dkt. 251]**

Party Information

Debtor(s):

Richard A Sorci Pro Se

Joint Debtor(s):

Judy E Sorci Pro Se

Trustee(s):

Timothy Yoo (TR) Represented By
Carmela Pagay
Jeffrey L Sumpter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 16, 2019

Hearing Room 1545

11:00 AM

2:18-20602 Luz Franco

Chapter 7

Adv#: 2:19-01091 Franco v. United States of America Department of Treasury In

#2.00 Status Conference re: Complaint to Determine
Dischargeability of Tax Liability

Docket 1

***** VACATED *** REASON: Cont'd to 7/30/19 at 11:00 a.m. [dkt. 5]**

Party Information

Debtor(s):

Luz Franco

Represented By
Bruce A Boice
Bruce A Boice

Defendant(s):

United States of America

Pro Se

Plaintiff(s):

Luz Franco

Represented By
Bruce A Boice

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 16, 2019

Hearing Room 1545

11:00 AM

2:19-10153 Christian Rossil

Chapter 11

Adv#: 2:19-01138 Rossil v. Ruan Partida et al

#3.00 Status conference re: Complaint for a determination of the validity, priority or extent of liens and security interest

Docket 1

***** VACATED *** REASON: Cont'd to 7/30/19 at 11:00 a.m. [dkt. 6]**

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Defendant(s):

Daniel Ruan Partida

Pro Se

Sergio Salgado

Pro Se

Plaintiff(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 16, 2019

Hearing Room 1545

11:00 AM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01135 Koi Design LLC v. Strategic Partners, Inc.

#4.00 Status conference re: Complaint for Avoidance of
Judicial Liens and Declaratory Relief

Docket 1

***** VACATED *** REASON: Cont'd to 07/30/19 at 1:00 p.m [dkt. 9]**

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

Strategic Partners, Inc.

Pro Se

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 16, 2019

Hearing Room 1545

1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01135 Koi Design LLC v. Strategic Partners, Inc.

#1.00 Status Conference re: Complaint for Avoidance of
Judicial Liens and Declaratory Relief

Docket 1

***** VACATED *** REASON: Cont'd to 07/30/19 at 1:00 p.m. [dkt. 9]**

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

Strategic Partners, Inc.

Pro Se

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 16, 2019

Hearing Room 1545

1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19, 05/14/19

Docket 1

***** VACATED *** REASON: Cont'd to 7/30/19 at 1:00 p.m.**

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-12334 Lessie Williams

Chapter 13

#1.00 Hrg re: Motion for order determining value of collateral [11 U.S.C. section 506(a), FRBP 3012]

Docket 33

Tentative Ruling:

Grant, provided that this Court presumes that counsel for Debtor will not charge any fees for any work in connection with the prior version of this Motion (see dkt. 22, 32). If counsel seeks to charge any such fees, counsel must contest this tentative ruling. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lessie Williams

Represented By
Roseann Frazee

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-15571 Stephanie Oliver

Chapter 13

#2.00 Hrg re: Motion for order determining value of collateral [11 U.S.C. section 506(a), FRBP 3012]

Docket 10

Tentative Ruling:

Grant in part, setting the value of the collateral at \$10,425.00, rather than the \$10,000 requested in the motion, because the former is the dollar amount in the evidence submitted by Debtor (see dkt. 10 at PDF p.10). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Stephanie Oliver

Represented By
Devin Sawdayi

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:18-15783 Jose Villacorta and Sharlette M. Villacorta

Chapter 13

#3.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 46

Tentative Ruling:

Appearances required. There is no tentative ruling, but the Debtors should be prepared to address the issues raised by the Chapter 13 Trustee's comments (dkt. 48).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Villacorta

Represented By
R Grace Rodriguez

Joint Debtor(s):

Sharlette M. Villacorta

Represented By
R Grace Rodriguez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:18-15959 Luis B. Rosales

Chapter 13

#4.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 73

Tentative Ruling:

Appearances required. There is no tentative ruling, but the Debtor should be prepared to address the issues raised by the Chapter 13 Trustee's comments (dkt. 75).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Luis B. Rosales

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:14-21119 Carlos Roberto Calderon and Rosalva Calderon

Chapter 13

#5.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 98

Tentative Ruling:

Appearances required. There is no tentative ruling, but the Debtors should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 100).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carlos Roberto Calderon

Represented By
Tamar Terzian

Joint Debtor(s):

Rosalva Calderon

Represented By
James T King
Tamar Terzian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:14-16723 Sandra Ellen Park and John Kimberly Cobb

Chapter 13

#6.00 Hrg re: Motion to excuse deceased debtor from completing course in personal financial management and from completing an application for entry of discharge (11 U.S.C. section 109(H)(4) and 727(a)(11))

Docket 57

Tentative Ruling:

(1) Grant insofar as excusing the requirement for deceased Debtor John Kimberly Cobb (Mr. Park) to complete the financial management course under 11 U.S.C. 109(h)(4), but deny to the extent, if any, that co-Debtor Sandra Ellen Park (Ms. Park) seeks to be excused from that requirement, and (2) grant insofar as permitting Ms. Park to file and serve an application for entry of discharge both for herself and for her deceased co-Debtor husband Mr. Park, but deny to the extent, if any, that Ms. Park requests to be excused from filing that application. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sandra Ellen Park

Represented By
William G Cort

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT... Sandra Ellen Park and John Kimberly Cobb

Chapter 13

Joint Debtor(s):

John Kimberly Cobb

Represented By
William G Cort

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:14-30546 Jerome O. Steward and Betty Jackson-Steward

Chapter 13

#7.00 Hrg re: Application of attorney for debtor for additional fees and related expenses in a pending chapter 13 case subject to a right and responsibilities agreement

Docket 79

*** VACATED *** REASON: Granted and vacated (dkt. 84)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jerome O. Steward

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Betty Jackson-Steward

Represented By
Ramiro Flores Munoz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-10459 Richard Jon Knutson

Chapter 7

#8.00 Hrg re: Application for attorney for debtor for allowance of fees and expenses following dismissal or conversion of chapter 13 case subject to a rights and responsibilities agreement

Docket 50

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties are directed to address whether Debtor's attorney's declaration (dkt. 56) sufficiently addresses the issues raised in the Trustee's comments (dkt. 51) on the fee application (dkt. 50).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Richard Jon Knutson

Represented By
Brad Weil

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:18-18060 Magdalena Avila

Chapter 13

#9.00 Hrg re: Objection to proof of claim Number 4
by Claimant The Bank of New York Mellon Trust
Company, National Association

Docket 46

Tentative Ruling:

Grant insofar as disallowing the arrears listed in Claim No. 4 (item 9), and any other aspect of the claim that is inconsistent with the parties' loan modification (see dkt. 39, 42). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth
William J Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:18-24164 Roberta Morrill

Chapter 13

#10.00 Hrg re: Objection to Claim Number 7 by
Claimant BMW Bank of North America

Docket 30

Tentative Ruling:

Continue to 8/15/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 7/18/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason
(available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT... Roberta Morrill

Chapter 13

cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Roberta Morrill

Represented By
Michael D Franco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-11583 Mary Ann Aguila

Chapter 13

#11.00 Hrg re: Objection to proof of claim of Lakeview Loan Servicing, LLC [Claim number 12 on the court's register]

Docket 34

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The tentative ruling is to disallow all of the arrears asserted in Claim No. 12 of Lakeview Loan Servicing, LLC ("Creditor"). As for \$2,527.70 of such arrears, Debtor has provided evidence, in the form of her bank statement (dkt. 34, Ex. B, at PDF p.26, entry for 2/19/19), that she paid the February mortgage payment. As for the balance of the alleged \$2,836.50 arrears as of the petition date, the tentative ruling is to sustain the objection because the proof of claim itself asserts that this is only an estimate (see dkt. 34, Ex.B, at PDF p.10, Part 3) and presumably the actual debit of \$2,527.70 is an updated amount that, having been debited, leaves no arrears as of the petition date. Accordingly, the tentative ruling is to disallow the entire alleged arrears.

To the extent, if any, that the claim objection seeks to disallow any other portions of the claim, the tentative ruling is to overrule the objection and allow the balance of Creditor's Claim No. 12 because the POC contains all of the documentation required by Rule 3001(c)(3)(A)(i) through (v) (Fed. R. Bankr. P.). Therefore it is *prima facie* evidence of the validity and amount of the claim (Fed. R. Bankr. P. 3001(f)) and Debtor has not presented any evidence to overcome that *prima facie* validity.

Alternatively, even if the claim were not entitled to *prima facie* validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re*

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT...

Mary Ann Aguila

Chapter 13

Campbell, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). Debtor has not, for example, provided evidence that she does not owe the debt; or any other basis to dispute this claim.

For each of these reasons, Debtor has met her burden to disallow the arrears as of the petition date, but has not met her burden to establish a basis to disallow the claim in its entirety.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Mary Ann Aguila

Represented By

Jaime G Monteclaro

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-12302 La Chanda Charlene Webb

Chapter 13

#12.00 Hrg re: Motion to disallow proof of claim of
JP Morgan Chase Bank, #2

Docket 24

Tentative Ruling:

Grant Debtor's request that claim no. 2 be deemed to have no arrearages. (To the extent that the motion seeks any other relief, that relief is extraneous to this claim objection, and can be requested and granted or denied by separate proceedings.) Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

La Chanda Charlene Webb

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-12970 Scharmaine Izora White

Chapter 13

#13.00 Hrg re: Objection to claim of California
Los Angeles County Treasurer and Tax
Collection

Docket 20

***** VACATED *** REASON: Voluntary Dismissal of Motion (dkt. 23)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Scharmaine Izora White

Represented By
Sam Benevento

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-10005 Luis Alberto Bravo

Chapter 13

#14.00 Hrg re: Motion for fine and/or disgorgement of fees against bankruptcy petition preparer, Carlos Baez Vasquez aka Carlos Baez, Stephanie Vasquez, JC Foreclosure Services, and JC Home Services for fines under sec. 110(h)(5) and for injunction under 110(j)(3) for failure to comply with turnover order

Docket 73

Tentative Ruling:

Grant the request for an injunction pursuant to 11 U.S.C. section 110(j)(3), and impose a fine of \$500 on the bankruptcy peititon preparers for failure to abide by this Court's order (dkt. 49). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Luis Alberto Bravo

Represented By
Brad Weil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:13-39919 Reynaldo Roxas Coronel and Mary Joyce Eugenio

Chapter 13

#15.00 Order to show cause why attorney Paul M. Allen should not be sanctioned

Docket 64

Tentative Ruling:

Appearances required. There is no tentative ruling, but Debtor's counsel should be prepared to address the issues raised in this Court's Order to Show Cause (dkt. 64).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Reynaldo Roxas Coronel

Represented By
Paul M Allen

Joint Debtor(s):

Mary Joyce Eugenio Francisco

Represented By
Paul M Allen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-17069 Maura Mendoza Preciado

Chapter 13

#16.00 Order show cause re: Dismissal due to simultaneous bankruptcy cases

Docket 12

Tentative Ruling:

Continue to 8/15/19 at 8:30 a.m. based on Debtor's counsel's request.
Appearances are not required on 7/18/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maura Mendoza Preciado

Represented By
Leonard Pena

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:13-25508 Luis Alfonso Duran and Alejandra Janeth Campos

Chapter 13

#17.00 Cont'd Status Conference re: Lien Avoidance Motions
fr. 3/26/19, 05/16/19

Docket 134

***** VACATED *** REASON: Withdrawn (dkt. 138)**

Tentative Ruling:

Party Information

Debtor(s):

Luis Alfonso Duran

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Joint Debtor(s):

Alejandra Janeth Campos

Represented By
Anthony Obehi Egbase
W. Sloan Youkstetter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:14-16044 Hermie Guanlao Cosme and Maria Elena Cosme

Chapter 13

#18.00 Cont'd hrg re: Motion to Modify Plan
or Suspend Plan Payments
fr. 05/16/19

Docket 34

***** VACATED *** REASON: Resolved (see dkt. 41) and order on motion
to modify plan.**

Tentative Ruling:

Party Information

Debtor(s):

Hermie Guanlao Cosme

Represented By
Hasmik Jasmine Papian

Joint Debtor(s):

Maria Elena Cosme

Represented By
Hasmik Jasmine Papian

Movant(s):

Kathy A Dockery (TR)

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:16-24755 Gloria Elisa Galvan

Chapter 13

#19.00 Cont'd hrg re: Motion to Disallow Claim Number 13
Filed by TSDC, LLC
fr. 08/02/18, 10/02/18, 11/6/18, 01/08/19, 03/21/19,
05/16/19

Docket 113

Tentative Ruling:

Tentative Ruling for 7/18/19:

Take this matter off calendar. Appearances are not required.

Analysis and caveat:

This Court has continued this matter several times at the request of the parties (see dkt. 129, 139, 152, 163, 177). This Court issued an order (dkt. 180) modifying the automatic stay to permit the parties to seek approval of the settlement by the District Court presiding over the parties' underlying action (subject to whatever approval Debtor might need from this Bankruptcy Court to be able to enter into and effectuate that settlement). The parties have now filed a stipulation (dkt. 183) resolving the motion/claim objection that is the subject of this hearing, a motion (dkt. 184) authorizing them to file their settlement agreement under seal, and a settlement motion (dkt. 185).

Caveat: Although this motion/claim objection has been withdrawn, it is not presently known whether this Bankruptcy Court will approve the settlement agreement (or the associated motion to file it under seal), nor is it clear whether the federal District Court will approve the settlement of the underlying litigation. But if there are any objections by any party in interest, or any questions or concerns of this Court about those things, the parties or this Court can set a hearing or status conference.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT... Gloria Elisa Galvan

Chapter 13

appropriate for disposition at this hearing.

Tentative Ruling for 8/2/18:

Appearances required. There is no tentative ruling on the merits, but the parties should be prepared to address (1) whether mandatory abstention applies (28 U.S.C. 1334(c)(2)) in view of the pending action, *TSDC, LLC v. Galvan, et al.* (N.D. Ohio, Case No. 1:14-cv-02699-CAN) (Ellis decl. para. 10); and alternatively (2) whether discretionary abstention should apply under 28 U.S.C. 1334(c)(1) and *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166-70 (9th Cir.1990).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Michael E Clark
Nancy B Clark
Nancy B Clark
Barry E Borowitz
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT...

Gloria Elisa Galvan

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-12964 John Martin Kennedy

Chapter 13

#20.00 Cont'd hrg. re: Motion to Convert Case from Chapter 13 to 11 Under 11 U.S.C. Sections 706(a) or 1112(a) fr. 05/16/19

Docket 23

Tentative Ruling:

Tentative Ruling for 7/18/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (1) the appeal for which this Court granted relief from the automatic stay (see dkt. 46), (2) why the proposed mediation order was not lodged until 6/25/19 despite this Court ordering that it be lodged by 5/30/19 (see dkt. 51, 52, 54), and (3) whether this Court should continue this hearing to a date after 9/1/19 as requested by Debtor (dkt. 54).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 5/16/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the opposition and request to dismiss this case (dkt. 31) filed by creditor Yunuen Campos and Debtor's reply (dkt. 32).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT... **John Martin Kennedy**

Chapter 13

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/15/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the opposition and request to dismiss this case (dkt. 31) filed by creditor Yunuen Campos.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Movant(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:17-11281 Muriel Ann Carr

Chapter 13

#21.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 6/13/19

Docket 70

***** VACATED *** REASON: Resolved by order (dkt. 77)**

Tentative Ruling:

Party Information

Debtor(s):

Muriel Ann Carr

Represented By
Julius Johnson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:17-22085 Maria Ever Dorn

Chapter 13

#22.00 Cont'd hrg re: Motion for order disallowing proof of claim #3 of the Bank of New York Mellon, fka The Bank of New York as trustee for registered holders CWABS, Inc. asset-Backed certificates, series 2005-14 serviced by Carrington Mortgage Services, LLC
fr. 6/13/19

Docket 60

***** VACATED *** REASON: Order allowing POC (dkt. 64)**

Tentative Ruling:

Party Information

Debtor(s):

Maria Ever Dorn

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:17-23866 Felisa Dee Richards

Chapter 13

#23.00 Cont'd hrg re: Application for supplemental fees
for Eliza Ghanooni, Debtor's Attorney
fr. 6/13/19

Docket 84

***** VACATED *** REASON: Hearing withdrawn [dkt. 95]**

Tentative Ruling:

Party Information

Debtor(s):

Felisa Dee Richards

Represented By
Mark T Young

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:18-14320 Ronald G Sanchez

Chapter 13

#24.00 Cont'd hrg re: Objection to Claim 3-1 of California Uninsured Employers Benefit Trust Fund; Request that Claim be Disallowed fr. 11/29/18, 2/21/19, 03/21/19, 05/16/19

Docket 30

Tentative Ruling:

Tentative Ruling for 7/18/19:

Deny as moot because Claim 3-1 has been withdrawn and the hearing has been requested to be taken off calendar (dkt. 49). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 5/16/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties are directed to address the status of the trial in the worker's compensation action (see dkt. 45, para 5). If the trial has not been commenced or completed, how long should this hearing on the claim objection be continued (1) for a trial in the worker's compensation action (see dkt. 38, para.5) and/or (2) for mediation?

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/18:

Appearances required. The tentative ruling is (1) to continue this claim objection to 2/21/19 at 8:30 a.m., and meanwhile (2) order Debtor and the uninsured employers benefits trust fund ("Claimant") to mediation, to include, if possible, all other parties in interest, including Jorge Antonio Gomez Lopez ("Lopez") and any insurers, with a deadline of 12/11/18 to lodge a proposed mediation order.

Analysis:

Based on the papers filed by the parties (dkt. 30, 32, 33), as well as the other filed papers and records of this Court (e.g., dkt. 16, 20, 22), the parties' disputes appear ripe for mediation. There are numerous issues that might be decided in favor or against Debtor, Claimant, and Lopez. All of those issues probably are risky and expensive to litigate.

(a) Preclusion from disallowance of Lopez' claim

As Debtor points out, this Court issued an order (dkt. 22) disallowing Lopez' claim. True, as Claimant points out, there might be grounds file a motion for reconsideration of that order. But that is far from certain and the docket does not reflect that any such motion has been filed.

Claimant argues that this Court' disallowance of Lopez' claim should not have any claim or issue preclusive effect because there was no evidentiary hearing nor any analysis by this Court of the response that, Claimant points out, Lopez filed (albeit untimely). But it is far from certain whether preclusion applies: in general, even default judgments have a preclusive effect, and the precise scope of preclusion has not been fully briefed by the parties.

(b) Possible proceedings before Workers Compensation Appeals Board (the

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"Board")

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Claimant asserts that the Workers Compensation Appeals Board can and should adjudicate the issues, notwithstanding the fact that (i) no motion has been filed seeking relief from the automatic stay (11 U.S.C. 362(a)) for proceedings in that forum, (ii) the Board might (or might not) be bound by the preclusive effect of this Court's disallowance of Lopez' claim, (iii) the Board might (or might not) be bound by the preclusive effect of the Superior Court's grant of summary judgment in favor of Taylor, (iv) the Board might (or might not) be bound by Lopez' apparent admission in his own complaint in Superior Court that Taylor, not Debtor, was the general contractor (see dkt. 32, Ex.D, para.4), and (v) even if the Board has no constraints on its consideration of the issues, Claimant points out that the Board could reach a wide range of final determinations based on the full panoply of circumstances - *e.g.*, that Debtor was Lopez' employer, or that Debtor was a co-employer with Taylor, or that Debtor was not Lopez' employer at all. In addition, there might be litigation over the Board's ability to join all parties; there might be appeals from whatever the Board decides; there might be complications from the roles of any insurers; etc.

In other words, all parties appear to have many battles to fight before they can prevail, and many ways that they could lose, and meanwhile the cost of litigation might make any victory Pyrrhic. Mediation seems the best approach, and this Court has the power and authority to order mandatory mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ronald G Sanchez

Represented By
David S Hagen

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Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

8:30 AM

2:18-14940 Georgetta Lee Ciufo

Chapter 13

#25.00 Cont'd order to show cause why Synchrony and
Cir Law Firm should not be sanctioned for
violating the automatic stay and/or co-debtor
stay
fr. 4/18/19, 6/13/19

Docket 33

Tentative Ruling:

Tentative Ruling for 7/18/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 6/13/19, this Court ordered mandatory mediation, and the order assigning the matter to mediation was issued on 6/21/19. Dkt. 48. In the absence of a consensual resolution, the parties should address whether this Court will permit or require any further briefing and/or any evidentiary hearing(s) on (1) liability issues, (2) willfulness/*mens rea*, and (3) damages, including any punitive damages.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Supplemental Tentative Ruling for 6/13/19:

Grant, and award damages in a dollar amount to be determined in future proceedings.

(1) Overview

This Court finds it helpful to distinguish between (a) *in personam*

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Chapter 13

liability against (i) Debtor or (ii) Debtor's non-debtor spouse, Mr. Robert Ciufo ("Codebtor"), and (2) *in rem* liability against property of (i) Debtor or (ii) the bankruptcy estate. For example, the automatic stay distinguishes between acts to obtain possession of "property" of the estate (*in rem* liability, 11 U.S.C. 362(a)(3)) and acts to collect "a claim against the debtor" (*in personam* liability, 11 U.S.C. 362(a)(6)).

As Debtor notes (dkt. 29, p.13:7-15), the bankruptcy estate is broad. It encompasses "[a]ll interests of the debtor and the debtor's spouse in community property as of the commencement of the case" that is either under Debtor's sole or joint "control" or that is "liable for an allowable claim against the debtor, or for both an allowable claim against the debtor and an allowable claim against the debtor's spouse, to the extent that such interest is so liable." 11 U.S.C. 541(a)(2) (emphasis added). In addition, under 11 U.S.C. 1306(a)(1), property of the estate includes all property of the same kind acquired "after the commencement of the case"

With this background this tentative ruling first reviews the applicability of the automatic stay, and then reviews the codebtor stay. Then this tentative ruling turns to damages.

(2) Violation of the automatic stay (11 U.S.C. 362(a))

Debtor argues that paragraph "(1)" of subsection 362(a) was violated. This Court agrees. In addition, the tentative ruling is that at least one other paragraph of section 362(a) applies.

(a) Paragraph "(1)"

The automatic stay bars "the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title." 11 U.S.C. 362(a)(1) (emphasis added). Debtor argues that there is a "claim against the debtor" because California Family Code section 914 "makes his debt hers." Dkt. 42, p.2:23 (capitalization altered).

Respondents argue (dkt. 40, p.4:4-16) that Family Code section 914 applies as between spouses - in the context of a divorce, for example - and does not establish *in personam* liability of Debtor to respondents. Respondent cites no authority so holding, and this Court is not persuaded for

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two alternative reasons.

(i) Respondents' efforts to collect from Codebtor were efforts to collect from Debtor's *property* interests

True, Respondents' nonbankruptcy action only named Codebtor, not Debtor. But that is still an attempt to collect a claim against Debtor under the applicable law.

Respondents have not identified any separate property of Codebtor, let alone established that they limited their nonbankruptcy action to collect solely out of any such separate property. Debtor has a community property interest in all community property, which includes Codebtor's earnings. *See, e.g., In re Kimmel*, 367 B.R. 174 (Bankr. ND Cal. 2007). Under Family Code section 910(a), "Except as otherwise expressly provided by statute, the community estate is liable for a debt incurred by either spouse before or during marriage, regardless of which spouse has the management and control of the property and regardless of whether one or both spouses are parties to the debt or to a judgment for the debt." (Emphasis added.) Under 11 U.S.C. 102(2), "'claim against the debtor' includes claim against property of the debtor." Therefore, Debtor is correct that the debt at issue constitutes a "claim against the debtor" within the meaning of 11 U.S.C. 362(a)(1).

(ii) Alternatively, because the debt at issue was for "necessaries," Respondents were attempting to collect a debt on which Debtor has *in personam* liability

Debtor has made a *prima facie* showing that the debt at issue is for "necessaries of life" (within the meaning of Family Code section 914) because the debt was for gas for Codebtor's car so he could get to work. Respondents have not overcome that *prima facie* showing. Therefore, Family Code section 914 expands the community property liability (section 910) such that Debtor has *in personam* liability (and Debtor's separate property is also liable).

Specifically, although the general rule under Family Code section 913(b)(1) is that, "The separate property of a married person is not liable for a debt incurred by the person's spouse before or during marriage," section 914 provides:

- (a) Notwithstanding Section 913, a married person is personally liable for the following debts incurred by the person's spouse during marriage:
- (1) A debt incurred for necessities of life of the person's

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spouse

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(b) The separate property of a married person may be applied to the satisfaction of a debt for which the person is personally liable pursuant to this section. ... [Emphasis added.]

In other words, even if respondents were not pursuing a claim against property of Debtor (which they were), they were pursuing a claim on which Debtor is personally liable to respondents. True, their action did not name Debtor, but section 362(a)(1) does not include any such requirement that the action or proceeding at issue name the debtor as a defendant.

Nor would it make sense to read such a limitation into the statute. Congress presumably knew that collecting a claim against a debtor in bankruptcy from some non-debtor source very likely would give rise to claims for indemnity, contribution, and the like. So it would make no sense to read the automatic stay as inapplicable unless the action specifically names the debtor. That would gut the "breathing spell" that the automatic stay is supposed to provide.

(iii) Respondents misread *In re Fadel*

Respondents cite *In re Fadel*, 492 B.R. 1 (9th Cir. BAP 2013) (dkt. 40, pp.4:4-5:16) for the proposition that Family Code section 914 only applies when a debtor's separate property is used to pay debts (at which point the debtor can then seek reimbursement from the nondebtor spouse). Respondents misread *Fadel*. In that case the creditor was pursuing foreclosure of the nondebtor husband's separate property, the debtor wife was not liable on the deed of trust note, and the BAP was only observing that, because the debtor wife had not used her separate property to satisfy her husband's debt, no reimbursement rights were triggered under Family Code section 914 and, in that context, the statute was inapplicable. *Id.* at 16.

(iv) Conclusion as to section 362(a)(1)

Respondents violated the automatic stay's prohibition on any proceeding to recover "a claim against the debtor" (11 U.S.C. 362(a)(1)) on two alternative grounds. They pursued a claim against Codebtor, and that counts as a "claim against the debtor" under 11 U.S.C. 102(3) because of Debtor's property interest in community property and Codebtor's earnings. Alternatively, respondents pursued a claim arising from "necessaries," as to which Debtor has *in personam* liability.

(b) Paragraph "(3)"

The automatic stay bars, among other things, "any act to obtain

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possession of property of the estate or of property from the estate or to exercise control over property of the estate." 11 U.S.C. 362(a)(3) (emphasis added). As already noted, Debtor has a community property interest in her husband's earnings, so respondents' acts to collect from Codebtor's earnings (or other community property) violated section 362(a)(3).

(3) Violation of the codebtor stay (11 U.S.C. 1301)

With inapplicable exceptions, the codebtor stay provides that "a creditor may not act, or commence or continue any civil action, to collect all or any part of a consumer debt of the debtor from any individual that is liable on such debt with the debtor" 11 U.S.C. 1301(a) (emphasis added). Respondents argue that a "debt of the debtor" in section 1301(a) is different from a "claim against the debtor" under section 362(a)(1), even though the term "debt" is defined by statute as "liability on a claim." 11 U.S.C. 101(12). This Court is not persuaded

Respondents cite *Smith v. Capital One Bank (USA)*, 845 F.3d 256 (7th Cir. 2016), but that decision is distinguishable because the debt in that case was one "for which the debtor is not personally liable but that may be satisfied from the debtor's interest in marital property" (*id.* at 258) and as noted above Debtor is personally liable for this debt of Codebtor because it was for "necessaries." Moreover, this Court respectfully disagrees with *Smith* to the extent it reads into section 1301 a limitation to *in personam* liability and omits *in rem* liability.

First, *Smith* reasoned that reading the codebtor stay to include claims against a debtor would be redundant of provisions of section 362(a)(1) that "likely" would apply (*id.* at 260), but it is well established that Congress, in making the automatic stay very broad, included overlapping provisions. Second, the purpose of codebtor stay is to protect debtors from indirect collection efforts, by pursuing persons who share liability with the debtor and who could then pursue the debtor or debtor's property for indemnity, contribution, or similar claims.

In this case, for example, respondents have failed to explain how their efforts to collect from Codebtor could possibly avoid depleting the bankruptcy estate by taking either community property or Codebtor's earnings (not to mention taking Debtor's time and energy to focus on the effects on her and her husband). Respondents have not explained why section 1301 should be read to permit that, to the detriment of other creditors and Debtor.

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Chapter 13

(4) Damages

The tentative ruling is that 11 U.S.C. 362(k) applies to violations of section 362(a) but not to violations of section 1301. Although non-statutory remedies appear to be available for violations of section 1301 - under 11 U.S.C. 105 or this Court's inherent powers - Debtor has not briefed such alternative remedies. In addition, those alternatives do not appear to add any greater remedies than under section 362(k), and they might provide lesser remedies. See generally *In re Taggart*, ___ U.S. ___ (6/2/2019) (addressing sanctions for violations of 11 U.S.C. 524, and declining to address standards under section 362(k)); *In re Dyer*, 322 F.3d 1178, 1190 (9th Cir. 2003).

The tentative ruling is to award the following sanctions under section 362(k): (a) \$225, payable to Debtor, for her filing fee in State Court, plus any other attorney fees incurred in State Court in response to the respondents' violations of the stay, (b) Debtor's attorney fees in this bankruptcy case for preparing and prosecuting this motion (see *In re Schwartz-Tallard*, 803 F.3d 1095 (9th Cir. 2015) (en banc)), and (c) punitive damages, payable to the bankruptcy estate, in a dollar amount to be determined. *In re Bloom*, 875 F.2d 224, 228 (9th Cir. 1989) (movant must show "reckless or callous disregard of the law or rights of others").

The tentative ruling is to deny Debtor's requests for any other damages (see dkt. 39), including (i) her asserted emotion distress damages or any punitive damages payable to her individually (except to the extent, if any, that punitive damages would result in a surplus estate). See *In re Dawson*, 390 F.3d 1139, 1148-49 (9th Cir. 2004) (to support emotional distress damages debtor must show "clear evidence" of "significant harm" caused by stay violation, as distinct, for instance, from the anxiety and pressures inherent in the bankruptcy process).

(5) Conclusion

The parties may supplement their prior oral arguments to address the foregoing issues, if they choose. In addition, unless this Court is persuaded to depart from the foregoing tentative ruling, the parties are directed to address a schedule (a) for Debtor to file declaration(s) establishing attorney fees and any allowable costs, (b) for respondents to respond, (c) for Debtor to reply. In addition, the parties are directed to address the issue of punitive damages, and what further briefing and evidence is appropriate, if any.

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Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 6/13/19:
Appearances required.

Background

This Court did not post any written tentative ruling prior to the hearing on 4/18/19; but at that hearing this Court gave a partial oral tentative ruling, heard argument, and informed the parties that it was anticipated that a written tentative ruling would be issued prior to this continued 6/13/19 hearing. Thereafter the alleged contemnors filed a letter requesting that this Court refrain from issuing any written tentative ruling (dkt. 43) - purportedly to aid in settlement discussions - and Debtor filed a response (dkt. 46) objecting to that letter and asserting that, to the contrary, issuing a written tentative ruling would facilitate resolution of this matter.

Current status

Unless the docket reflects a settlement, or other developments that would warrant further deferring any tentative ruling (*e.g.*, a stipulation to a continuance), this Court anticipates posting a tentative ruling after noon on 6/12/18, and then addressing at the hearing on 6/13/19 whether to accept further argument or not, and any other remaining procedural or substantive issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing

Chapter 13

Tentative Ruling for 4/18/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Georgetta Lee Ciufo

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:18-20426 Matthew Michael Totaro

Chapter 13

#26.00 Cont'd hrg re: Debtor's motion for an order reducing the amount of the unsecured priority claims listed in Poc No. 2-1 filed by Department of the Treasury - Internal Revenue Service fr. 6/13/19

Docket 74

***** VACATED *** REASON: Voluntary Dismissal filed 06/30/19 [Dkt 90]**

Tentative Ruling:

Party Information

Debtor(s):

Matthew Michael Totaro

Represented By
Michael R Totaro

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:19-11833 Jennifer Johanna Haas

Chapter 13

#27.00 Cont'd hrg re: Debtor's objection to Claim Number 4 by
Claimant Merrick Bank c/o Resurgent Capital Services
fr. 6/13/19

Docket 22

Tentative Ruling:

Tentative Ruling for 7/18/19:

Grant (sustain the objection to Merrick Bank's claim no. 4) with a warning to counsel that in future (1) a cost/benefit analysis must be provided as part of the claim objection and (2) attorney fees probably are not warranted, even in a reduced dollar amount, based on a purported benefit as paltry as the one in this case: under \$200, and that assumes that the current dividend to non-priority unsecured creditors remains at the current 57%. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

This Court expressly finds that Counsel has provided a cost/benefit analysis (dkt. 33) that is (just barely, this one time only) sufficient for purposes of Judge Bason's posted procedures regarding claim objections. The cost/benefit analysis was not timely filed (due 6/20, filed 7/10). This Court is willing to excuse the tardiness of the cost/benefit analysis in light of Counsel's commitment to file a fee application for work on the claim objection not exceeding \$500.00 (see dkt. 33 at PDF p.2).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 6/13/19:

Continue to 7/18/19 at 8:30 a.m. to address the following issues.

Appearances are not required on 6/13/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to

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assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jennifer Johanna Haas

Represented By
Caroline S Kim

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-11833 Jennifer Johanna Haas

Chapter 13

#28.00 Cont'd hrg re: Objection to Claim Number 3 by Claimant
Pediatric Hospitalists of America, Inc.
fr. 6/13/19

Docket 23

Tentative Ruling:

Tentative Ruling for 7/18/19:

Grant (sustain the objection to Pediatric Hospitalists of America, Inc.'s claim no. 3) with a warning to counsel that in future (1) a cost/benefit analysis must be provided as part of the claim objection and (2) attorney fees probably are not warranted, even in a reduced dollar amount, based on a purported benefit as paltry as the one in this case: under \$200, and that assumes that the current dividend to non-priority unsecured creditors remains at the current 57%. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

This Court expressly finds that Counsel has (just barely, and this one time only) provided a cost/benefit analysis (dkt. 34) that is sufficient for purposes of Judge Bason's posted procedures regarding claim objections. The cost/benefit analysis was not timely filed (due 6/20, filed 7/10). This Court is willing to excuse the tardiness of the cost/benefit analysis in light of Counsel's commitment to file a fee application for work on the claim objection not exceeding \$300.00 (see dkt. 34 at PDF p.2).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

**United States Bankruptcy Court
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Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT... Jennifer Johanna Haas

Chapter 13

appropriate for disposition at this hearing.

Tentative Ruling for 6/13/19:

Continue to 7/18/19 at 8:30 a.m. to address the following issues.

Appearances are not required on 6/13/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to

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Los Angeles
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CONT... Jennifer Johanna Haas

Chapter 13

assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jennifer Johanna Haas

Represented By
Caroline S Kim

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#29.00 Cont'd hrg re: Motion to Disallow Claim No. 4 filed by
Department of Treasury - Internal Revenue Service
fr. 05/16/19, 06/13/19

Docket 26

***** VACATED *** REASON: Motion withdrawn (dkt. 91)**

Tentative Ruling:

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Movant(s):

Rene Medina

Represented By
Bruce A Boice
Bruce A Boice

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:18-17617 Ericka A Reinke

Chapter 13

#30.00 Cont'd hrg re: Motion for Order to Either Compel U.S. Bank, N.A., dba USB Leasing LT, Respondent to: (1) Affirmatively Disposes Debtor of its Surrendered Collateral, Pursuant to the Order Confirming Debtor's Second Amended Plan; or, Alternatively, (2) To Effectively Order the Transfer of Title of the Destroyed Collateral to the Debtor so that She May Lawfully Dispose of it at a Metal Salvage Facility
fr. 05/16/19

Docket 35

Tentative Ruling:

Tentative Ruling for 7/18/19

Appearances required. There is no tentative ruling, but the parties should be prepared to apprise the Court of the parties' progress re arranging for U.S. Bank dba USB Leasing to repossess Debtor's vehicle (see dkt. 38, 40).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ericka A Reinke

Represented By
Todd J Roberts

Movant(s):

Ericka A Reinke

Represented By
Todd J Roberts

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT... Ericka A Reinke

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

2:19-16545 Bianca Marie Aranda

Chapter 13

#31.00 Order to show cause why William Cort, Esq should not be sanctioned for non-appearance at hearing on July 2, 2019

Docket 23

Tentative Ruling:

Appearances required. There is no tentative ruling, but Debtor's counsel should be prepared to address the following issues.

Current issues

This Court's order setting this hearing (the "OSC," dkt. 23) directed Mr. Cort to address three issues. He has addressed two of them.

First, Mr. Cort's declaration provides an explanation for his failure to appear at the 7/2/19 hearing. See dkt. 26, 28. The tentative ruling is that the explanation is sufficient.

Second, Mr. Cort's declaration describes a \$1,000 fee (in addition to the filing fee) for the Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay (the "Stay Motion," dkt. 16). The tentative ruling is to limit the fee to the \$750 flat fee authorized by the Court Manual (available at www.cacb.uscourts.gov), section 2.9(b) at p.2-50.

Third, Mr. Cort has not provided this Court with an explanation of why the Stay Motion and the notice of the Stay Motion had incorrect and misleading information about the deadline for any response to the Stay Motion. This Court is concerned that Mr. Cort's notices imposed an undue burden on creditors and this Court.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
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Los Angeles
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Thursday, July 18, 2019

Hearing Room 1545

8:30 AM

CONT... Bianca Marie Aranda

Chapter 13

Debtor(s):

Bianca Marie Aranda

Represented By
William G Cort

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, July 18, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
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Monday, July 22, 2019

Hearing Room 1545

3:00 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01122 David K. Gottlieb, Chapter 7 Trustee v. Martin

#1.00 Cont'd hrg re: Mediation
fr. 07/08/19

Docket 0

***** VACATED *** REASON: TO BE HELD AT 3:30PM**

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb, Chapter 7 Trustee

Represented By
Monica Y Kim
Beth Ann R Young

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, July 22, 2019

Hearing Room 1545

3:00 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01106 David K. Gottlieb in his capacity as Chapter 7 Tru v. Roxe, LLC, a

#2.00 Cont'd hrg re: Mediation
fr. 07/08/19

Docket 0

***** VACATED *** REASON: TO BE HELD AT 3:30PM**

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Roxe, LLC, a California limited

Represented By
Dawn M Coulson

Michael Martin an individual

Represented By
Dawn M Coulson

Doe 1 through DOE 10, inclusive

Pro Se

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb in his capacity as

Represented By
Beth Ann R Young
Lindsey L Smith

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, July 22, 2019

Hearing Room 1545

3:00 PM

CONT...

Duane Daniel Martin

Chapter 7

**United States Bankruptcy Court
Central District of California
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Monday, July 22, 2019

Hearing Room 1545

3:00 PM

1:16-10045 Duane Daniel Martin and Tisha Michelle Martin

Chapter 7

#3.00 Cont'd hrg. re: Mediation
fr. 07/08/19

Docket 0

***** VACATED *** REASON: TO BE HELD AT 3:30PM**

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
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Monday, July 22, 2019

Hearing Room 1545

3:00 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01122 David K. Gottlieb, Chapter 7 Trustee v. Martin

#4.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 07/08/19

Docket 0

***** VACATED *** REASON: TO BE HELD AT 3:30PM**

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb, Chapter 7 Trustee

Represented By
Monica Y Kim
Beth Ann R Young

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Monday, July 22, 2019

Hearing Room 1545

3:00 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01106 David K. Gottlieb in his capacity as Chapter 7 Tru v. Roxe, LLC, a

#5.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 07/08/19

Docket 0

***** VACATED *** REASON: TO BE HELD AT 3:30PM**

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Roxe, LLC, a California limited

Represented By
Dawn M Coulson

Michael Martin an individual

Represented By
Dawn M Coulson

Doe 1 through DOE 10, inclusive

Pro Se

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb in his capacity as

Represented By
Beth Ann R Young
Lindsey L Smith

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, July 22, 2019

Hearing Room 1545

3:00 PM

CONT...

Duane Daniel Martin

Chapter 7

United States Bankruptcy Court
Central District of California
Los Angeles
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Monday, July 22, 2019

Hearing Room 1545

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1:16-10045 Duane Daniel Martin and Tisha Michelle Martin

Chapter 7

#6.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 07/08/19

Docket 0

*** VACATED *** REASON: TO BE HELD AT 3:30PM

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Monday, July 22, 2019

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3:30 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01122 David K. Gottlieb, Chapter 7 Trustee v. Martin

#1.00 Cont'd hrg re: Mediation
fr. 07/08/19

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb, Chapter 7 Trustee

Represented By
Monica Y Kim
Beth Ann R Young

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
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Monday, July 22, 2019

Hearing Room 1545

3:30 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01106 David K. Gottlieb in his capacity as Chapter 7 Tru v. Roxe, LLC, a

#2.00 Cont'd hrg re: Mediation
fr. 07/08/19

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Roxe, LLC, a California limited

Represented By
Dawn M Coulson

Michael Martin an individual

Represented By
Dawn M Coulson

Doe 1 through DOE 10, inclusive

Pro Se

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb in his capacity as

Represented By
Beth Ann R Young
Lindsey L Smith

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
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CONT...

Duane Daniel Martin

Chapter 7

**United States Bankruptcy Court
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Hearing Room 1545

3:30 PM

1:16-10045 Duane Daniel Martin and Tisha Michelle Martin

Chapter 7

#3.00 Cont'd hrg. re: Mediation
fr. 07/08/19

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
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Monday, July 22, 2019

Hearing Room 1545

3:30 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01122 David K. Gottlieb, Chapter 7 Trustee v. Martin

#4.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 07/08/19

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb, Chapter 7 Trustee

Represented By
Monica Y Kim
Beth Ann R Young

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
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Monday, July 22, 2019

Hearing Room 1545

3:30 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01106 David K. Gottlieb in his capacity as Chapter 7 Tru v. Roxe, LLC, a

#5.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 07/08/19

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Roxe, LLC, a California limited

Represented By
Dawn M Coulson

Michael Martin an individual

Represented By
Dawn M Coulson

Doe 1 through DOE 10, inclusive

Pro Se

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb in his capacity as

Represented By
Beth Ann R Young
Lindsey L Smith

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Monday, July 22, 2019

Hearing Room 1545

3:30 PM

CONT... Duane Daniel Martin

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Monday, July 22, 2019

Hearing Room 1545

3:30 PM

1:16-10045 Duane Daniel Martin and Tisha Michelle Martin

Chapter 7

#6.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 07/08/19

Docket 0

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 23, 2019

Hearing Room 1545

10:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#1.00 Cont'd hrg re: Motion for relief from automatic stay [RP]
fr. 6/18/19, 7/9/19

BAKERS 26, LLC
vs
DEBTOR

Docket 6

Tentative Ruling:

Tentative Ruling for 7/23/19:

Please see the tentative ruling for the status conference (calendar no. 5,
7/23/19 at 10:00 a.m.)

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

Movant(s):

Bakers 26, LLC

Represented By
Jacob L Eaton

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 23, 2019

Hearing Room 1545

10:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#2.00 Cont'd hrg re: Debtor's Emergency Motion for Order
Authorizing Payment of Wages and Related Expenses
fr. 6/18/19, 7/9/19

Docket 26

Tentative Ruling:

Tentative Ruling for 7/23/19:

Please see the tentative ruling for the status conference (calendar no. 5,
7/23/19 at 10:00 a.m.)

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 23, 2019

Hearing Room 1545

10:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#3.00 Cont'd hrg re: Debtor's Emergency Motion for Order
Authorizing Use of Cash Collateral
fr. 6/18/19, 7/9/19

Docket 27

Tentative Ruling:

Tentative Ruling for 7/23/19:

Please see the tentative ruling for the status conference (calendar no. 5,
7/23/19 at 10:00 a.m.)

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 23, 2019

Hearing Room 1545

10:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#4.00 Cont'd hrg re: Motion to Dismiss Chapter 11 Case
fr. 6/18/19, 7/9/19

Docket 11

Tentative Ruling:

Tentative Ruling for 7/23/19:

Please see the tentative ruling for the status conference (calendar no. 5,
7/23/19 at 10:00 a.m.)

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 23, 2019

Hearing Room 1545

10:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#5.00 Cont'd status conference re: Chapter 11 case
fr. 7/2/19, 7/9/19

Docket 15

Tentative Ruling:

Tentative Ruling for 7/23/19:

Appearances required.

A. Tentative Rulings

For the reasons set forth below, the tentative rulings are:

(1) Relief from stay: grant the motion of Bakers 26, LLC ("Bakers") for relief from the automatic stay, perhaps conditioned on a lack of foreclosure prior to a specified date;

(2) Dismissal with a bar: grant Bakers' motion to dismiss this case, with a 180-day bar for willful failure to appear in proper prosecution of this case (11 U.S.C. 109(g)(1)); and

(3) Other rulings: make the other rulings set forth below so as to preserve the hotel's value, to the maximum feasible extent, pending a foreclosure sale or other disposition of the property.

Proposed orders: Bakers is directed to lodge proposed orders on the R/S Motion and the dismissal motion via LOU within 7 days after the hearing date. This Court will issue a Memorialization of these Tentative Rulings, and then add a cross-reference to them in the lodged orders, thereby adopting them as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

B. Reasons

(1) Overview

Debtor has a history of gross mismanagement dating back to the inception of the prior bankruptcy case (filed 10/14/18) and continuing in this case (filed 6/7/19). At the prior hearings in this case this Court found and

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 23, 2019

Hearing Room 1545

10:00 AM

CONT... **JDS Hospitality Group, LLC**

Chapter 11

concluded that existing management could not continue to manage the estate, so presumably Debtor either had to propose to sell the hotel or had to bring in substantial new investment - almost certainly combined with new management. But Debtor has failed to present any viable path to those options.

Meanwhile, Debtor's finances have continued to deteriorate substantially, after taking into consideration accruing taxes and insurance obligations. In addition, Debtor's insurance is insufficient to provide adequate protection to Bakers, unsecured creditors, or the public.

Debtor's counsel make the best arguments they can in the circumstances. But the tentative ruling is that they cannot overcome the history of this case and the ongoing problems described in this and prior tentative rulings.

(2) Procedural history

Debtor's history of gross mismanagement is reflected in prior tentative rulings (reproduced below). At recent hearings this Court has made it abundantly clear that, based on that history, they cannot be trusted to run this hotel, and to act as a debtor in possession with the duties of a trustee for the benefit of creditors. 11 U.S.C. 1101(1), 1107, 1108.

Nevertheless, as recited in the tentative ruling for 7/9/19:

this Court was persuaded [at the hearing on 6/18/19] to give Debtor one final opportunity to restructure its finances in a chapter 11 case, presumably either via (x) a proposed sale under 11 U.S.C. 363(b)&(f) or (y) a substantial equity infusion, which almost certainly would have to be combined with new management. [Emphasis added.]

In other words, this Court left open the possibility that, with a large enough and sufficiently immediate equity infusion, perhaps existing management could continue to have a role. But almost certainly new management would be required even if there were an equity infusion.

Just prior to the 7/9/19 hearings, Debtor presented a purported partnership agreement with Green Hospitality Partners ("Green"). See R. Chung Decl. (dkt. 86), Ex.4. Despite Debtor's reliance on a "\$2,000,000.00 capital infusion" (Reply, dkt. 107, p.3:9-10), the "agreement" is really an outline of a potential arrangement that Debtor hopes might lead to a \$2 million investment at some future date after considerable due diligence. It is

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not an actual, enforceable agreement.

Note: Bakers has filed a "supplement" (dkt. 108, pp.4:4-6:14) advancing various arguments why the alleged "agreement" is illusory. This Court accepts that supplement in keeping with this Court's acceptance of Debtor's own last-minute filings, because of the expedited nature of these proceedings (necessitated by the problems of leaving Debtor's current management in place for any longer than necessary). But, even if this Court were to disregard Bakers' supplement, many of its arguments have already been raised orally, and in any event this Court would reach the same conclusions without the supplement.

Despite the sham partnership "agreement," this Court was persuaded that Debtor should be granted more time (*i.e.*, a "final, final continuance") because section 5 of that proposed agreement stated that Green would "take over the Hotel Management effective on July 29th, 2019" R. Chung Decl. (dkt. 86), Ex.4. (emphasis added). This Court's order continuing the hearings memorialized this Court's oral ruling that the hearings would be continued to this 7/23/19 date for Debtor to file a "motion to approve [a] contract with [a] new management company to run the hotel, be it Green [] or another new management entity." Dkt. 87, p.2:13-15 (emphasis added).

(3) Debtor has failed to obtain new management (let alone any viable purchase offer or equity investment) and that is cause to convert or dismiss

Debtor's purported management agreement (dkt. 95, Ex.2, section 1) provides only for Green to be Debtor's "exclusive consultant," not the replacement manager. There is no evidence that Green has the intent, personnel, or resources to replace existing management (as Bakers points out, see dkt. 98; *and see also* Days Inn joinder, dkt. 109).

This is completely inadequate. Without an immediate and very substantial equity infusion (to protect creditors from the likelihood of damage by existing management) it is unacceptable for Debtor's current management to have any role going forward.

Debtor's latest proposal is actually a large step backward from what Debtor seemed to be promising with section 5 of its proposed "agreement" with Green. Rather than taking over management in a matter of days (by July 29, 2019), Green would be a consultant, with no assurance that existing management will be replaced at all. Nor is there any immediate equity

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infusion. All of that places the estate at substantial risk.

Debtor's reply attempts to address these deficiencies by stating that Mr. Hamlet (Green's principal, who appears to have considerable experience with hotels) will select and "work with" an on-site manager. Debtor also asserts that its existing management and principal will not retain "control" over the daily operations of the hotel. Reply (dkt. 102, p.5:9-26).

First, this greatly overstates what the documents provide. Nothing in the management agreement says that Debtor's existing management and principal will be removed from their primary role in running the hotel. Debtor's careful phrasing about "control" of the hotel is predicated on the (non-approved) partnership "agreement" (outline) which provides for Green to have a 2/3 vote. But that non-approved outline is not binding, and nothing in the management agreement suggests that Green will be using its (anticipated) control to take over management and remove Debtor's existing management.

Second, even if Green had the intent and authority to take over management, there is no evidence that it has the personnel or resources to do so. For Mr. Hamlet's experience and skills to provide any assurance that the current gross mismanagement will cease, he or his very close subordinates would need to have direct and close involvement in a thorough and immediate transition of the hotel away from existing management to new management. That is what the partnership "agreement" seemed to promise in section 5: Green would "take over the Hotel Management effective on July 29th, 2019" R. Chung Decl. (dkt. 86), Ex.4. (emphasis added). The proposed management agreement promises nothing of the sort.

If anything, the proposed management agreement shows that Debtor is still failing to take seriously the need for new management. That failure is yet one more instance of gross mismanagement. Debtor's history of gross mismanagement is cause for conversion or dismissal (11 U.S.C. 1112(b)(4) (B)).

(4) The tentative ruling is that any dismissal should include a 180-day bar

There is evidence that Debtor's acts and omissions constituting gross mismanagement are "willful" within the meaning of 11 U.S.C. 109(g)(1). At every turn, the focus appears to be not on protecting creditors' interests, or employees, or the public, but instead to hold out for some impossible deal that would result in a "home run" for Debtor's principal, regardless of the risks

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to other parties. The history supporting these conclusions is summarized in the tentative rulings from prior hearings in this case and in Debtor's prior bankruptcy case, reproduced below. The tentative ruling is that Debtor has willfully failed to appear in proper prosecution of this case within the meaning of 11 U.S.C. 109(g)(1).

(5) The lack of new management (let alone any viable purchase offer or equity investment) is also cause for relief from the automatic stay

Normally some evidence of an equity cushion would establish adequate protection of a secured creditor's interests, absent an actual appraisal from the party seeking relief from the automatic stay. Not in this case.

Debtor's bankruptcy schedules assert that the value of the hotel land, building, and associated personal property is approximately \$5.2 million, which is substantially above the dollar amount of Bakers' lien and senior liens - estimated by Debtor to be about \$4.2 million. See Bankruptcy Schedule A/B, dkt. 71, at PDF pp.7-8, lines 50 and 55.1; dkt. 90, p.4:1-8. But the tentative ruling is that the evidence of any equity cushion is woefully inadequate.

First, Debtor relies on purported offers that, on closer inspection, are only earlier, amorphous possibilities. Second, given the evidence of the property's deteriorated condition and ongoing problems, the tentative ruling is to find that, even if Debtor's documents could be characterized as genuine purchase and sale agreements, the condition of the property offers numerous grounds for the purported purchasers to renege on any commitment to purchase, so those documents are little if any evidence of value. Third, although Debtor's sworn bankruptcy schedules are also some evidence of value, the tentative ruling is that such evidence is insufficient, given the exhibited lack of reliability of other opinions by Debtor's management and principal (projected income). For all of these reasons, Debtor has not presented any reliable evidence of the value of the hotel sufficient to provide adequate protection of Bakers' interests in the hotel.

Moreover, even if there were some equity cushion, as noted above Debtor's current management cannot be trusted to continue to run this bankruptcy estate without jeopardizing any such cushion. Accordingly, the tentative ruling is that there is "cause" for relief from the automatic stay within the meaning of 11 U.S.C. 362(d)(1).

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In addition, there is evidence that Debtor's filing of this case has been part of a "scheme," involving multiple bankruptcy cases, to "delay, hinder, or defraud" creditors within the meaning of 11 U.S.C. 362(d)(4). Again, Debtor's history of using these bankruptcy cases for delay, and otherwise hindering or defrauding creditors, is set forth in the tentative rulings reproduced below.

(6) Debtor's finances have continued to deteriorate, which is an alternative cause both for conversion or dismissal and for relief from the automatic stay

Debtor's initial Monthly Operating Report ("MOR," dkt. 94) shows extremely thin revenues. See, e.g., *id.* at PDF p.7 (starting balance of \$509.20 and ending balance of \$2,489.78, based on receipts of \$126,380.34 and disbursements of \$124,399.76 for the partial month from 6/7/19 through 6/30/19) and *id.* at PDF pp.1, 4, 10 & 14 (under \$15,000 in other accounts).

In addition, as Bakers points out, Debtor has very substantial bills that will come due in the coming weeks and months for insurance and taxes. See dkt. 101, p.3:11-26 (estimating monthly escrow requirements of \$8,009 for insurance and \$12,600 for real estate taxes). After taking into account these forthcoming expenses on an accrual basis, it appears that Debtor is operating at a loss. Even using Debtor's lower figure of \$5,250 per month for real estate taxes (dkt. 110, p.3:22-23), Debtor appears to be operating at a loss.

In addition, it is appropriate to take into account other expenditures that would be necessary to remedy the poor condition of the property (at least to the point where Debtor could hope to obtain adequate insurance, see below, and have any hope of reorganizing). Based on any reasonable estimate of such expenditures, the true financial picture is that Debtor is continuing its pattern of operating at a loss that is both substantial and ongoing.

In addition, Debtor now seeks a continuance to try to obtain an additional \$1 million of insurance. Reply (dkt. 107) p.4:3-12. That would only deepen and further continue Debtor's losses.

Bakers' latest supplement also points out other financial deficiencies. See dkt. 108, pp.6:14-7:27. (As noted above, this Court is inclined to accept the supplement, given the expedited nature of these proceedings. But, again, this Court would reach the same result even without the supplement.)

Moreover, Debtor's projections are only that it could generate \$140,000 to \$150,000 per month during its allegedly "busy" summer months (dkt. 107,

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p.6:2-3). In other words, revenues likely will be lower within a couple of months, not higher (at least absent a very substantial equity infusion to vastly improve the hotel and, as noted above, Debtor's hope of a \$2 million equity infusion is based on a sham agreement).

In addition, this Court cannot rely on Debtor's latest projections because its past projections have been woefully inaccurate.

A "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation" is cause to convert or dismiss. 11 U.S.C. 1112(b)(4)(A). On the record presented, this standard has been met.

In addition, based on the lack of evidence of any equity cushion, and the justifiable concerns that Bakers has about the ability and willingness of Debtor to protect Bakers' interests in the hotel, the substantial and continuing losses are additional cause for relief from the automatic stay (11 U.S.C. 362(d)(1)). This Court recognizes that Debtor has made some adequate protection payments, but this Court's recollection is that those payments were set at a level that was only enough to cover the approximate estimate of ongoing accrual of interest, so they offer no protection against the hotel's ongoing and substantial losses.

(7) Debtor's insurance is inadequate, which is an alternative cause for conversion or dismissal, and cause for relief from the automatic stay

(a) Background

Debtor values its real property and improvements at \$5.1 million and its furniture, fixtures, and equipment at approximately \$100,000, for a total of approximately \$5.2 million. See Bankruptcy Schedule A/B, dkt. 71, at PDF pp.7-8, lines 50 and 55.1. Debtor has only \$3 million of insurance on its building (plus insurance on furniture, fixtures, and equipment, and liability insurance). See dkt. 90, p.5:21-22 & Ex.1.

True, Debtor has argued that \$3 million is sufficient because the land value constitutes a substantial portion of the total value of the hotel. It is conceivable for example that if the land alone were worth \$2.5 million then, even if a fire caused a total loss of the hotel building, creditors could be paid up to \$2.5 million out of a sale of the raw land plus the \$3 million insurance proceeds on the building.

Theoretically, such proceeds would be enough to cover not only secured claims but also unsecured claims. Debtor estimates secured claims

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of \$4.2 million (dkt. 90, p.4:1-8) (including \$3.8 million in estimated claims held by Bakers), \$181,281.40 in priority claims, and \$236,360.62 in nonpriority unsecured claims (*id.* p.4:8-15) for total estimated debts of slightly over \$4.6 million. In other words, this Court was not prepared at the prior hearings to rule out the possibility that \$3 million in insurance, combined with the value of the raw land, could protect Bakers, the bankruptcy estate, and the public.

At the hearing on 7/9/19 this Court was persuaded to continue the pending matters based on the rough outline of such a scenario. This continuance was predicated on Debtor filing a motion seeking whatever authorization would be required to authorize enough insurance to provide adequate protection for Bakers and also to protect unsecured creditors. See Order (dkt. 87).

Note: One reason this Court required such a motion is that, in this Court's view, Debtor's existing insurance is out of the "ordinary course." See 11 U.S.C. 363(b). In other words, it appears that Debtor's (expensive) insurance of last resort is not "ordinary" based on either Debtor's past history or industry standards, and therefore Debtor should have obtained this Court's approval (after notice and a hearing) before purchasing such insurance, and likewise Debtor should obtain approval now to continue with such insurance. See *Dant & Russell, Inc.*, 853 F.2d 700 (9th Cir. 1988). (This is not to say that insurance is not essential - it is. The point is only that notice, a hearing, and approval should have been obtained for the unusual type of insurance at issue.)

In addition, this Court directed Debtor to file a motion for approval of insurance because this Court anticipated that Debtor probably would need to increase its insurance coverage, and therefore would have to file a motion for authorization to use cash collateral beyond what has already been authorized (11 U.S.C. 363(c)) and/or to borrow funds (11 U.S.C. 364) to pay such increased insurance. It turns out that Debtor has not sought approval to pay for any increase in insurance, because it has been unable so far to obtain any such increase in insurance. See Reply (dkt. 107), p.4:3-12.

In any event, Debtor has filed its motion to approve the adequacy of its existing Insurance (dkt. 90). Debtor has not filed any evidence of the value of

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(b) Reasons why the insurance is inadequate

There are numerous problems with Debtor's assertion that \$3 million of building insurance is adequate to protect either Bakers' interests or the interests of unsecured creditors or the public:

(i) There is no evidence that the raw land value is as large as Debtor's arguments would require.

(ii) Even if the value of the raw land theoretically were very substantial on its own, in practice many losses such as a fire would require substantial remediation before the land could be sold at full value, so the net value of the land would be far less.

(iii) Bakers has presented evidence that Debtor's insurer might have defenses to coverage. For example, Bakers has presented evidence that fire extinguishers and other safety equipment or systems are deficient, which might well be grounds for denial of coverage. Debtor's inability to obtain regular insurance, despite seeking it from 16 insurers, is further evidence that the property is not in condition to be insured, and this reinforces the concern that there might be grounds for the current insurer-of-last-resort to deny coverage if a claim is actually made. All this reinforces the lack of reliability of the existing insurance.

(iv) Both Bakers and Days Inn have pointed out that Debtor's current insurer is un-rated, which means the insurance is not as reliable as is commonly required.

(v) At least if there were something less than a total loss of the hotel building, Debtor likely would need to replace some portion of the building rather than just take the proceeds and distribute them to creditors. But Bakers has presented evidence that the replacement cost far exceeds the \$3 million building insurance (and, likewise, that replacing the FF&E would exceed the insurance for the existing FF&E). This is another reason why the \$3 million amount does not appear sufficient.

(vi) At current levels Debtor's insurance coverage is out of compliance with its franchise with Days Inn, creating an ongoing risk of termination of that franchise, or of reimposition of some sort of restrictions by Days Inn. In addition, the specific ways in which Debtor's current insurance is out of compliance appear to show a risk both to the bankruptcy estate and to the public. Days Inn points out that Debtor's evidence does not establish

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sufficient insurance for: auto liability, liquor liability, workers compensation, or employer's liability. See dkt. 100, p.4:3-11.

(vii) The foregoing problems with the insurance coverage jeopardize any ability to obtain any other franchise or to sell the hotel or obtain equity investment.

(viii) Debtor's attempt to obtain insurance above the \$3 million cap of its current insurance (dkt. 107, pp.3:13-4:12) is too speculative, and too late.

See *generally* Bakers Omnibus Reply (dkt. 83) *passim* and at Ex.32, at PDF pp.23 *et seq.*; Days Inn obj., dkt.100, pp.3:23-4:11.

(c) Remedies for lack of adequate insurance

Based on the foregoing evidence of lack of sufficient insurance coverage, combined with Debtor's history and this Court's reasoning set forth in prior tentative rulings (reproduced below), Bakers has made a *prima facie* showing of both (a) a lack of adequate protection of Bakers' interests, constituting "cause" for relief from the automatic stay (11 U.S.C. 362(d)(1)), and (b) cause to convert or dismiss this bankruptcy case (11 U.S.C. 1112(b)(4) (C)) ("failure to maintain appropriate insurance that poses a risk to the estate or to the public"). There is substantial risk to Bakers, the estate, and the public. Debtor has not rebutted that showing.

In addition, Debtor's history of not adequately addressing Bakers' concerns about insurance (x) in the prior bankruptcy case, (y) between dismissal of that case and the filing of this case, or (z) in this case, is evidence of a willful failure to appear in proper prosecution of this case (11 U.S.C. 109(g)(1)). It is also evidence that Debtor has used this second case as part of a scheme to delay, hinder, or defraud creditors (11 U.S.C. 362(d) (4)).

To be clear, the tentative ruling is not that Debtor necessarily had any ability to obtain insurance and yet willfully chose not to. Rather the willful act is the choice to file another bankruptcy petition without either having already arranged adequate insurance or immediately taking steps to assure that creditors and the public would be protected by adequate insurance.

There is no evidence that, despite knowing for months about the expiration of prior insurance, and despite Bakers raising concerns about that expiration in the prior case, Debtor has acted diligently. To the contrary, Debtor did not file any "first day" motion for a sale of the property to someone

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who could obtain adequate insurance, nor did Debtor file a "first day" motion to approve a substantial equity infusion that could be used to restore the property and obtain adequate insurance, nor in the following weeks has Debtor presented any such solution. Rather, Debtor was prepared to let secured creditors, unsecured creditors, and the public bear the exposure to uninsured risks without treating adequate insurance coverage as a crucial, emergency matter requiring immediate action.

The tentative ruling is that these acts and omissions amount to a willful failure to appear in proper prosecution of this case (11 U.S.C. 109(g)(1)) and that these acts and omissions were not calculated to do anything but hinder, delay, or defraud creditors. Debtor's principal may have had vague and unrealistic hopes that some solution might work out that would maximize her investment, but in the many months since the prior bankruptcy was filed through the present, she has not been prepared to do what is needed to assure uninterrupted and adequate insurance to protect creditors and the public.

(8) Dismissal, rather than conversion

The tentative ruling is that dismissal is in the best interests of creditors. Based on the (admittedly meager) evidence in the record regarding the value of the estate, it seems unlikely that the hotel could be sold in a chapter 7 case for enough net proceeds to cover costs of administration and also provide a dividend to unsecured creditors. Conversely, it seems likely that if this case is dismissed then Bakers and Days Inn, both acting in their own self-interest, will attempt to preserve the hotel as a going concern and sell the hotel for fair value through a nonbankruptcy receivership and sale, or comparable nonbankruptcy remedies.

The tentative ruling is for this Court to further incentivise such an outcome by conditioning relief from the automatic stay on a bar of any foreclosure sale prior to a specified date, thereby providing an opportunity for a receiver to market and sell the property, or for other remedies that might maximize value. The parties are directed to address that issue at the hearing.

(9) Debtor's challenge to Bakers' standing is unpersuasive

Debtor questions whether Bakers has a viable security interest in the hotel property. See dkt. 90 p.6:16-7:8. The tentative ruling is that there is more than sufficient evidence of Bakers' standing. See Case No. 2:18-

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bk-22059-NB, Claim no. 10, dkt. 102-104, dkt.143-44 Ex.1-12 & Ex.14-15 (especially dkt.144 at Ex.14, PDF pp.55-59). *See also In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011) (standing).

(10) Debtor's evidentiary objections

The tentative ruling is that Debtor's latest evidentiary objections (dkt. 103, 104, 105) are moot because this tentative ruling does not rely on any of the proffered evidence to which Debtor objects.

C. Conclusion

Based on the foregoing, and Debtor's extensive history in its prior case and this case, the tentative ruling is that there is cause to grant both Bakers' motion for relief from the automatic stay and its motion to dismiss this case. In addition, to preserve the hotel's value, to the maximum feasible extent, pending a foreclosure sale or other disposition of the property, the tentative ruling is to make the other rulings set forth below. The parties are also directed to address whether some different approach, such as a short delay in dismissing this case, would help to facilitate orderly arrangements regarding any nonbankruptcy receivership or other avenues.

The tentative rulings on each separate matter are as follows:

(a) Bakers' Motion For Relief From The Automatic Stay ("R/S Motion," dkt.6). Grant, including "*in rem*" relief (on the same terms set forth in the tentative ruling for 6/18/19 at 10:00 a.m., calendar no. 12, part "(2)," reproduced below).

(b) Cash Collateral Motion (dkt. 27). Grant further interim authorization through the dismissal of this case, and otherwise deny.

(c) Payroll Motion (dkt. 26). Deny any further relief - *i.e.*, deny any compensation to insiders.

(d) Motion to Approve Stipulation with Days Inn (dkt. 89). Grant, so as to preserve the hotel's value.

(e) Motion to Approve Adequacy of Insurance (dkt. 90). Deny.

(f) Motion to Employ Green Hospitality Partners as Hotel Management Company (dkt. 96). Deny.

(e) Bakers Motion to Dismiss ("MTD," dkt. 11). Grant, with a 180-day bar for willful failure to appear in proper prosecution of this case (11 U.S.C. 109(g)(1)).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/9/19:
Appearances required.

(1) Current issues

At the hearing on 6/18/19 this Court expressed considerable skepticism about whether creditors or this Court can place reliance on Debtor's existing management, or can expect any turn around in Debtor's performance. That skepticism was based on the history of Debtor's prior bankruptcy case and its complete failure in this case to take appropriate steps such as "first day" motions.

Nevertheless, this Court was persuaded to give Debtor one final opportunity to restructure its finances in a chapter 11 case, presumably either via (x) a proposed sale under 11 U.S.C. 363(b)&(f) or (y) a substantial equity infusion, which almost certainly would have to be combined with new management. This Court also: granted certain interim relief; prohibited any payments to insiders; and required Debtor to make an adequate protection payment to creditor Bakers 26, LLC ("Bakers") of \$20,000, no later than 7/1/19. See *dk.* 63, 64, 65, 69, 70.

As of the preparation of this tentative ruling, the docket does not reflect any progress toward a 363 sale or a major equity infusion (or any other developments, except an objection to Debtor's utility motion, *dk.* 80, which is addressed below). Accordingly, the tentative rulings are as follows.

(a) Bakers' Motion For Relief From The Automatic Stay ("R/S Motion," *dk.* 6)

Grant, including relief under 11 U.S.C. 362(d)(1) and (4), as set forth in the tentative ruling for 6/18/19 (see calendar no.1, 7/9/19 at 9:00 a.m.).

(b) Cash Collateral Motion (*dk.* 27)

Deny any further authorization for use of cash collateral, except for (i) non-insider payroll and (ii) other necessary expenses for preserving the

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collateral during the transition period contemplated before dismissal (see below). Any such use of cash collateral is conditioned on the prior written consent of each creditor holding a secured claim. It is contemplated that such use of cash collateral will be for purposes of preserving value during a transition from current management to a receiver and/or foreclosure.

(c) Utility Motion (dkt. 28)

Grant on a final basis, except that as to Souther California Gas Company ("SoCal Gas") such relief is conditioned on Debtor paying the requested deposit of \$3,825.00 in cash or cash equivalent, such that it is received by SoCal Gas no later than 7/11/19, otherwise SoCal Gas may terminate service pursuant to non-bankruptcy law. This Court recognizes that dismissal of this case may render this utility motion moot; but as set forth below this Court is also mindful that it may be appropriate to delay dismissal for a brief transition period, and to preserve the value of the estate it may be necessary to provide the requested security deposit during that time.

(d) Payroll Motion (dkt. 26)

Deny any remaining relief - *i.e.*, any payment to insiders (because all other persons have already been paid) - based on the insiders' failures to perform necessary and appropriate services in accordance with their duties as persons in control of a debtor-in-possession. Such failures include not seeking authorization for payroll in time for normal payroll processing, despite the insiders' knowledge of the importance of that duty from Debtor's prior chapter 11 case, which means either (i) payroll was delayed - which is very unfair to employees - or (ii) Debtor made payroll in violation of the Bankruptcy Code - which is gross mismanagement.

(e) Bakers Motion to Dismiss ("MTD," dkt. 11)

Grant, with a 180 day bar under 11 U.S.C. 109(g)(1), for willful failure to appear in proper prosecution of this case, for all the reasons stated in the tentative ruling for 6/18/19 (see calendar no. 5, 7/9/19 at 9:00 a.m.). This Court contemplates, however, that dismissal might be delayed by a few days or so, to enable an orderly transition in management from Debtor's current management to a receiver, or a purchaser at a foreclosure sale. The parties are directed to address that issue at the hearing. Meanwhile, Debtor's insiders are reminded again of their duties as fiduciaries for the benefit of creditors, and their counsel is directed no later than the hearing on 7/9/19 to remind them of such duties in writing.

(f) Status Report (dkt. 77)

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The status report erroneously states that no budget motion is required (please Judge Bason's posted Procedures, available at cacb.uscourts.gov, which state that budget motions are "[r]equired," without limiting such requirement to individuals). But, in view of the dismissal of this case, that issue is moot.

Proposed orders: Bakers is directed to lodge proposed orders on the R/S Motion and the dismissal motion via LOU within 7 days after the hearing date and attach a copy of the applicable tentative rulings from 6/18/19 and 7/9/19, thereby adopting them as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Debtor is directed to lodge proposed orders on each of the remaining motions, with the same instructions as to timing and content.

(2) Deadlines/dates. This case was filed on 6/7/19.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

COPY OF TENTATIVE RULING FROM 6/18/19 at 10:00 a.m., calendar no. 16 (Bakers26 Motion to Dismiss):

Appearances required.

(A) Dismiss this case under 11 U.S.C. 1112 and (B) impose a 180-day bar for willful failure to appear "in proper prosecution of the case" under 11 U.S.C. 109(g)(1). This Court has reviewed the opposition papers (dkt. 58), and this tentative ruling is subject to oral argument at the hearing. See Order Shortening Time (dkt. 17), p.3. The tentative ruling is to excuse any lack of

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strict compliance with the OST because notice and service have been adequate under the circumstances. See dkt. 23, 42, 43.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis

The tentative ruling is that the following alternative grounds exist for the relief sought in the motion papers. This Court is mindful of the fact that this matter is being heard on shortened time, early in this bankruptcy case. Nevertheless, on the present record, and subject to oral argument, the tentative ruling is to dismiss this case and impose a 180-day bar.

(1) Insurance ((b)(4)(C))

In Debtor's prior bankruptcy case (Case No. 2:18-bk-22059-NB), there was evidence that insurance was expiring on 5/25/19. See *id.* dkt. 138, at PDF p.17, para.27, and Ex.4 at PDF p.33 (filed 4/23/19). Debtor therefore not only should have foreseen the need to arrange in advance for new insurance, it was on actual notice, over a month in advance, that this could be a problem.

But there is evidence that Debtor's insurance was canceled effective 5/25/19 (as to its commercial package coverage) and 6/1/19 (as to excess liability) (dkt. 6-2, Ex.17, at pp.124-25). In this current bankruptcy case, Debtor asserts that as of 6/14/19 it has obtained insurance (see Debtor's Opp., dkt. 58, p.4:14-21). Notably absent is any denial by Debtor that it had a gap in insurance coverage from 5/25/19 through 6/14/19.

True, the current insurance coverage apparently was made retroactive to 5/25/19. See dkt. 58, R. Chung Delc., para.19 & Ex.3. But if any significant loss had occurred during the gap before replacement insurance was obtained, Debtor ran the (very substantial) risk of not being able to obtain any insurance coverage. That gap period extended after the petition date of 6/7/19 until 6/14/19 - *i.e.*, for a postpetition period of seven days.

This Court recognizes that Debtor filed this bankruptcy case on 6/7/19 because of the impending 6/10/19 foreclosure sale. But whatever pressures Debtor may have had, that does not excuse the lack of insurance.

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The tentative ruling is that in a hotel with dozens if not hundreds of guests, fourteen days, including seven days postpetition, is a substantial period of time to go without insurance coverage. The tentative ruling is that such a gap in coverage imposes a substantial risk on the public and the estate, which is cause to dismiss. 11 U.S.C. 1112(b)(4)(C).

In addition, given the amount of notice that Debtor had of the need to address insurance, the tentative ruling is that Debtor's failure to obtain insurance and its decision to file this bankruptcy case without such insurance appears to be a willful failure to appear in "proper" prosecution of this case. To be clear, this Court's tentative ruling is not that Debtor would have elected to run the risk of not having insurance given a complete freedom of choice; but it appears that Debtor willfully elected not to take whatever steps were necessary to assure insurance until it turned out to be too late to avoid a gap in coverage. The tentative ruling is that this is willful failure to appear in proper prosecution of this case, which is cause to impose a 180-day bar. 11 U.S.C. 109(g)(1).

The foregoing tentative rulings are reinforced by Debtor's history in its prior bankruptcy case of not being proactive, or even adequately reactive, in managing the online bookings fiasco. That situation is summarized in the tentative rulings for that prior case (reproduced in this case within the tentative ruling for calendar no.12, 6/18/19 at 10:00 a.m.).

As in that situation (involving bookings), Debtor should have foreseen in this situation (involving insurance) the need to be proactive. Failing that, at the very least Debtor should have been adequately reactive once the issues had been flagged for Debtor. Insurance was flagged on 4/23/19, and in this Court's tentative ruling (later adopted as the final ruling) regarding dismissal of the prior bankruptcy case. See Case No. 2:18-bk-22059-NB, dkt. 138 (at PDF p.17, para.27, and Ex.4 at PDF p.33) and dkt. 156 (dismissal order). Debtor has not offered any explanation for being unable to maintain insurance despite such notice.

(2) Gross mismanagement ((b)(4)(B))

The tentative ruling is that Debtor's handling of the insurance matter (described above) is sufficient to establish a *prima facie* showing of gross mismanagement. That shifted the burden to Debtor to rebut that showing, but Debtor has not done so.

In addition, the tentative ruling is that Bakers has submitted sufficient

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evidence that (a) the property has physically been allowed to fall into a state of disrepair, (b) Debtor's reservation system is subject to (unspecified) restrictions, and (c) Debtor's exit strategy continues to be vague and uncertain. That shifts the burden to Debtor to overcome the appearance that there is gross mismanagement.

Debtor argues that Bakers' evidence of the dilapidated state of the property is "stale," that Debtor's physical condition has been improving, that its projected revenues are healthy, and that it has prospective buyers and a prospective investor. This Court has heard that story before from this Debtor.

(a) Physical condition of the property

Although this Court recognizes that the pool, hot tub, and other aspects of the property might not be as bad as suggested in the report prepared for Bakers (see dkt.57), there is still substantial evidence of dangerous conditions and deferred maintenance (see dkt. 6-4, Ex.22, at pp.211-74, and the additional photographs, *id.*, Ex.23, at pp.275-77). Debtor's opposition papers do not include any specific information about what Debtor is doing to address these issues.

Debtor provides only vague and sweeping assertions that the property was allowed by previous owners to fall into a bad state and that Debtor has been improving the property. Such assertions appear to be contrary to the only evidence before this Court of Debtor's past expenditures: its monthly operating reports from its prior case, which do not appear to reflect any restoration of the property and, if anything, appear to be more consistent with ongoing deterioration.

(b) Reservation systems

There is evidence that Debtor's use of the Days Inn reservation system is restricted. Debtor provides no information about the nature of that restriction, how much impact that is having on Debtor's ability to generate revenues, what is being done to address the issue, or any other facts and circumstances.

This Court would expect capable and proactive management to present detailed information on these issues, to have strategies and tactics to address all of those things, to support their analysis and proposed approaches with evidence, and to present all of that to this Court as part of some "first day" motions (*e.g.*, use of cash collateral to help remove some or all restrictions). Instead there is barely any recognition of the problem.

This is reminiscent of Debtor's fiasco with its online reservation

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systems (Expedia and Bookings.com) in its prior bankruptcy case, in which Debtor never provided any satisfactory explanation for failing to foresee the problem, failing to recognize it once it arose, or failing to act quickly and decisively enough once the problem was recognized. See the tentative ruling for Bakers' R/S Motion, calendar no. 12 on this 10:00 a.m. calendar for 6/18/19).

In this case Debtor reports vaguely that it is "working to resolve the [unspecified] restriction on its reservation system with Days Inn." Dkt. 57, Response to Bakers' R/S Motion, p.3, para. 3.c.(6). The tentative ruling is that the scant information is itself evidence of gross mismanagement.

(c) Debtor's vascilating and vague exit strategy

In the prior case Debtor repeatedly vascillated between purported sales opportunities and equity investment opportunities, but never produced evidence of any solid exit strategy. See, e.g., Bakers' Response re Cash Collateral (dkt. 56), pp.2:15-3:14 (citing and quoting from Debtor's vascillating statements). In this case Debtor has provided copies of two letters of intent ("LOI"), but the tentative ruling is that they are unconvincing.

The first LOI is for \$6.1 million, but it is dated 2/12/19 (dkt. 58, R. Chung Decl., Ex.1, at PDF pp.18-21); it required Debtor's signature by 2/19/19 (*id.* para.10) and in any event it was subject to a 45 day investigation period (*id.* para.3) which has long since expired. The second LOI is for \$5.1 million and is dated 3/29/19 (*id.*, Ex.2, at PDF pp.22-25); and it required Debtor's signature by 4/5/19 (*id.* para.10) which has long since expired.

(d) Lack of evidence of steps to improve cash flow

Despite Debtor's (unspecified) restrictions in use of the Days Inn reservation system, and despite the apparent lack of physical improvement in the property, Debtor's cash collateral motion includes relatively rosy projections of future cash flow. As Bakers argues (dkt. 11, 56), Debtor made rosy projections in its first bankruptcy case but ended up losing a substantial amount of money.

Debtor's projected income is just a series of seemingly random figures. Debtor offers no evidentiary support, and no explanation for any change from the first bankruptcy case except the vague assertion that Debtor's summer season will be busier.

In the prior bankruptcy case Debtor repeatedly anticipated better performance, including in the busier winter holiday season. Instead its performance was extremely bad. See tentative rulings from prior bankruptcy

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case, reproduced in tentative ruling for calendar no.12 (Bakers' R/S Motion).

Debtor's projected expenses also raise concerns (although at least they are listed and Debtor shows the calculation of projected net income). One problem is that the expenses appear to be reduced from what would be typical. Debtor omits any property taxes because those "are typically paid in April and December" and the cash collateral budget runs from June through November, 2019. See Cash Collateral Budget (dkt. 27, Ex.1). If the budget included such taxes, estimated by Debtor at \$30,000 (*id.*), Debtor's projected budget would be extremely "thin."

Debtor's insurance expense also appears to be lower that what Debtor typically were pay if its annual expenses were spread out evenly over 12 months. Debtor appears to have obtained insurance pursuant to California's "FAIR" program, with an initial payment of \$25,356.50 (see dkt. 58, R. Chung Decl., Ex.3, last page, at PDF p.34) - presumably either prepetition or from a non-Debtor source because no authorization was sought for such an expenditure. That insurance requires ongoing payments of \$6,250.00 per month (Cash Collateral Motion, dkt. 27, Ex.1). It is unclear whether Debtor can continue to afford such insurance. See *also* dkt. 56, p.4:9-23 (arguing that if Debtor has obtained insurance through the "FAIR" program - insurance of last resort - that is further evidence of Debtor's troubled condition).

The tentative ruling is that all of the foregoing adds up to present a picture that is very reminiscent of Debtor's first bankruptcy case. Debtor is making vague promises regarding (a) the physical condition of the property, (b) somehow addressing the restrictions in its use of the Days Inn reservation system, (c) some sort of exit strategy that might involve a sale or an equity investment, and (d) somehow increasing monthly gross income and minimizing monthly expenses, but there is a glaring absence of actual evidence and analysis of data to back up any of this.

In addition, as noted in the tentative ruling on Bakers' R/S motion (calendar no. 12, on this 10:00 a.m. calendar on 6/18/19), Debtor has failed to be proactive in obtaining authorization from this Court or payment of payroll on 6/14/19, or for the use of cash collateral, or other matters.

The tentative ruling is that Debtor's lack of proactive steps and evidence on all of the foregoing shows gross mismanagement within the meaning of 11 U.S.C. 1112(b)(4)(B).

(3) Loss/diminution and no reasonable prospects for rehabilitation ((b)(4)(A))

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On the one hand, this Court is not currently persuaded that "rehabilitation," within the meaning of 11 U.S.C. 1112(b)(4)(A), can never include a process of "staunching the bleeding" in preparation for an orderly liquidation, even if that process involves substantial or continuing losses or a "diminution to the estate," as long as that process is calculated to preserve more value for creditors than other alternatives. The tentative ruling is that this can constitute a "rehabilitation" in preparation for a sale or other liquidation.

For example, if a hypothetical debtor were to diminish a \$1 million estate by spending \$100,000, but that would stabilize the estate at a value of \$900,000, and the alternatives would be a foreclosure sale or "fire sale" that would cause the estate to be worth only \$800,000, then the hypothetical debtor's expenditure of the \$100,000 to stabilize the estate could, in this Court's view, constitute a "rehabilitation." In other words, this Court is not persuaded that the statute would force this Court to convert or dismiss the case in such a situation, thereby harming creditors. To the extent the motion papers argue otherwise this Court is not persuaded. See Motion (dkt. 11) p.8:13-25 (citing *Loop Corp. v. U.S. Trustee*, 379 F.3d 511, 516 (8th Cir. 2004), and *In re The Ledges Apts.*, 58 B.R. 84, 87 (Bankr. D.Vt. 1986)).

But on the present record there is no evidence that Debtor's prosecution of this case is likely to preserve more value for creditors than other alternatives. To the contrary, the decision to file this bankruptcy case and thereby stop the movant's foreclosure sale appears to have obstructed the best opportunity for someone (Movant, or another buyer at a foreclosure sale) to take charge of the subject property and immediately invest the funds and expertise needed to bring the property into a condition in which it could be safe and preserve its current value. Therefore the tentative ruling is that there is cause to dismiss this case under 11 U.S.C. 1112(b)(4)(A).

(4) Other "cause" to dismiss ((b)(1))

The tentative ruling is that there is persuasive evidence of non-payment of adequate protection payments and taxes in the first case, in violation of this Court's orders and Debtor's obligations under the Bankruptcy Code and, although that is not the same as such acts in this case (11 U.S.C. 1112(b)(4)(D),(E)&(I)), nevertheless it places a high premium on Debtor showing a different course of conduct in this second bankruptcy case. But the tentative ruling is that all of the matters addressed in this tentative ruling

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and in the tentative ruling for calendar no.12 are *prima facie* evidence that this case was not filed in good faith.

The tentative ruling is that such conduct establishes "cause" to dismiss this case within the meaning of 11 U.S.C. 1112(b)(1). See 11 U.S.C. 102(3) ("includes" and "including" are not limiting). In addition, the tentative ruling is that such conduct establishes a willful failure to appear in "proper" prosecution of this case within the meaning of 11 U.S.C. 109(g)(1) (emphasis added).

(5) Conclusion

The tentative ruling is that Movant has shown *prima facie* cause to dismiss this case and to impose a 180-day bar against being a debtor in any future bankruptcy case. The tentative ruling is that Debtor has not rebutted that showing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

COPY OF TENTATIVE RULING FROM 6/18/19 at 10:00 a.m., calendar no. 12 (Bakers26 Motion for relief from automatic stay):

Grant this motion of Bakers 26, LLC ("Bakers") for relief from the automatic stay, as provided below, and overrule the opposition (dkt. 57), all subject to oral argument (see Order Shortening Time, "OST," dkt. 10). The tentative ruling is to excuse any lack of strict compliance with the OST because notice and service have been adequate under the circumstances. See dkt. 23, 42, 43. Appearances required.

Proposed order: Movant Bakers is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling - including the tentative rulings from Debtor's prior bankruptcy case (reproduced below) - thereby incorporating this tentative ruling as this Court's

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final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Analysis, and termination of automatic stay

This Court is mindful of the fact that this matter is being heard on shortened time, early in this bankruptcy case. Nevertheless, on the present record, and subject to oral argument, the tentative ruling is to terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4), for the reasons set forth in the motion papers (dkt. 6-9) and the filed documents and this Court's records from Debtor's prior case combined with the lack of progress in this case.

(a) Evidentiary issues

The tentative ruling is to sustain Debtor's hearsay objection regarding the alleged basis for not renewing insurance (see dkt. 60) but otherwise accept the evidence of insurance cancellation for two reasons. First, it is part of Bakers' business to assure that its interests in the property are adequately protected by insurance, so the business records exception and the declarant's knowledge of the business establish that Debtor has not complied with requirements to provide Bakers with assurances of the maintenance of insurance. Rules 602 & 803(6) (Fed. R. Evid.). That is enough to shift the burden to Debtor to establish that it does, in fact, have adequate insurance. Second, and alternatively, Debtor does not appear to dispute the facts on which this Court is relying regarding insurance (see below).

The tentative ruling is to sustain Debtor's hearsay objection (dkt. 59) regarding the alleged basis for restricting Debtor's use of the central reservation system maintained by Days Inn Worldwide, Inc. ("Days Inn") - the alleged "four to five months" of missed payments - but otherwise accept the evidence that Debtor has been restricted in its use of Days Inn's system. The reasons are the same as stated above in connection with the evidence regarding insurance.

(b) Cause for relief

This Court is especially troubled by the following:

(i) Gap in insurance: see the tentative ruling for calendar no.16 (on this 10:00 a.m. calendar for 6/18/19);

(ii) Real estate taxes: Debtor's principal had promised to pay these taxes in the first bankruptcy case as part of the "adequate protection" to Bakers, but apparently those taxes were not paid then and the deficit has only

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gotten worse (see dkt. 6-2, Ex.18, at p.126), all of which means that any promises to provide "adequate protection" in this second bankruptcy case (e.g., the promise to pay \$15,000 per month; the assertion that Debtor's condition is improving rather than deteriorating; and the assertion that Debtor will have a viable exit strategy within a reasonable time) must be viewed with considerable skepticism;

(iii) Reservation system: Debtor apparently is restricted in its use of Days Inn's reservations system (dkt. 6-3, Ex.21, at p.189, and dkt. 57, p.3, para.3.c.(6));

(iv) Property condition report: although this Court recognizes that the pool, hot tub, and other aspects of the property might not be as bad as suggested in the report (see dkt.57), there is still substantial evidence of dangerous conditions and deferred maintenance (see dkt. 6-4, Ex.22, at pp.211-74, and the additional photographs, *id.*, Ex.23, at pp.275-77) (see also the tentative ruling for Bakers' motion to dismiss this bankruptcy case, calendar no. 16 on this calendar for 10:00 a.m. on 6/18/19);

(v) Delay: Debtor's "first day" wage, cash collateral, and utility motions (dkt. 26-28 *et seq.*) were not filed until after 6:30 p.m. on 6/12/19, when the petition was filed on 6/7/19 - Debtor should have known from its prior bankruptcy case (Case No. 2:18-bk-22059-NB) the importance of providing information and coordinating with its attorneys to have those motions filed immediately, for the reasons set forth below;

(vi) Payroll: Debtor either has not made the 6/14/19 payroll - and the tentative ruling is that this would show gross mismanagement in not seeking this Court's approval early enough - or has paid employees for that payroll period without this Court's approval - which presumably includes at least some prepetition hours worked and therefore is an unauthorized payment of prepetition debt;

(vii) Cash collateral: Debtor either has not been using cash collateral - which would mean a lack of normal business operations - or has been using cash collateral without authorization (11 U.S.C. 363(c)); and

(viii) Lack of evidence: Debtor provides no evidence (x) of any currently pending offers for the hotel, or other progress in the various exit strategies it has had since commencement of its prior bankruptcy case over eight months ago, on 10/14/18 (Case No. 2:18-bk-22059-NB), (y) in support of its projected income and expenses (see Cash Collateral Budget, dkt.27, Ex.1), or (z) regarding the current state of its online bookings and its franchise

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with Days Inn (apart from acknowledging, vaguely, that there is a restriction on Debtor's use of its reservation system).

The tentative ruling is to grant the relief requested in the motion, as further set forth below, based on the foregoing and on the other matters addressed in the tentative ruling on Bakers' motion to dismiss this bankruptcy case (calendar no. 16 on this 10:00 a.m. calendar for 6/18/19). As to "*in rem*" relief in particular, the tentative ruling is that Bakers has met its prima facie burden of establishing the existence of a "scheme" to "hinder" or "delay" or "defraud" it, involving the prior bankruptcy case and this one. These two bankruptcy cases have prevented Bakers from exercising remedies for a total of over eight months (since the filing of the prior bankruptcy case on 10/14/18); these cases have not been adequately prosecuted; and the tentative ruling is that those things have established a scheme to hinder and delay Bakers within the meaning of the statute.

(2) Standard terms

(a) Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(b) Relief notwithstanding *future* bankruptcy cases

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

(c) Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

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COPIES OF SELECTED TENTATIVE RULINGS FROM DEBTOR'S PRIOR BANKRUPTCY CASE (Case No. 2:18-bk-22059-NB):

Tentative Ruling for 5/7/19:

Appearances required.

(1) Current issues

(a) Motion of Baker 26, LLC ("Baker") to dismiss case (the "MTD," dkt. 117-131), Debtor's opposition (dkt. 138), and Baker's reply (dkt. 152)

Dismiss this case, without a bar. Under 11 U.S.C. 1112(b) this Court "shall" dismiss (or convert) this case for cause, with only limited exceptions. There does not appear to be any argument that conversion is practical, so the question is whether to dismiss.

(i) Insurance

One type of "cause" to dismiss is "failure to maintain appropriate insurance that poses a risk to the estate or to the public." 11 U.S.C. 1112(b)(4)(C). The MTD points out that Debtor's insurance is expiring very soon, and that there is no evidence of Debtor's financial ability to renew its insurance, or an insurer's willingness to do so. In response, Debtor asserts only that it currently has insurance - which is expiring on 5/25/19. See dkt. 138, at PDF p.17, para.27, and Ex.4 at PDF p.33. That is insufficient.

Debtor asserts (dkt. 138, at PDF p.17, para.28) that it is "finalizing" negotiations with prospective purchasers and intends to bring both a motion to sell the hotel property and an application to employ its real estate broker by the time of this hearing on the MTD. Theoretically, a pending sale might be one way of taking care of the insurance issue, because it might be grounds for this Court to find and specifically identify "unusual circumstances"

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establishing that dismissing this case is not in the best interests of creditors and the estate, if Debtor can establish "a reasonable likelihood that a plan will be confirmed ... within a reasonable period of time" and if Debtor establishes "reasonable justification" for the apparent failure to arrange for future insurance and establishes that insurance will be obtained "within a reasonable period of time fixed by the court." 11 U.S.C. 1112(b)(2). Presumably, the method of curing the lack of insurance from 5/25/19 forward would be that the purchaser would pay for that insurance; and presumably the proposed "plan" would be essentially to provide for distributing the proceeds of a sale under 11 U.S.C. 363.

The main problem with all of this is that Debtor is out of time: no application to employ any broker has been filed (let alone approved); and no 363 sale motion has been filed (let alone granted). That application and sale motion cannot reasonably be expected to be filed, served, heard, and granted, and the sale itself cannot be expected to close, all in the next two weeks and three days (before the existing insurance expires on 5/25/19).

Conceivably, Debtor's principal, Ms. Rhonda Chung, might be willing and able to fund the insurance (using funds from her 401(k) retirement account, or some other source, as she has done with some other expenses in the past). But Debtor has not suggested that any such funding is forthcoming; Debtor's principal apparently has not lived up to her commitment to pay real estate taxes (see below) so any mere promise to pay insurance would be inadequate on the present record; and in any event Debtor has not provided any evidence that an insurer is ready, willing, and able to extend future insurance.

For all of these reasons, it appears that this Court has no choice. Congress has directed that this Court "shall" dismiss this case due to "failure to maintain" appropriate insurance. 11 U.S.C. 1112(b)(4)(C).

(ii) Taxes, adequate protection payments, losses, and management

Other types of cause for dismissal include failure to pay postpetition taxes, "gross mismanagement," failure to comply with an order of the court, or "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(I), (A), (B) & (E). The MTD alleges that Debtor has failed to pay postpetition taxes (see *dk*. 131, p.3, para.7) and Debtor has not contested that issue (although, as noted above, Debtor's principal had promised to fund tax payments - see

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tentative ruling for 11/27/18, part "(1)(a)," reproduced below).

The MTD also alleges that Debtor has failed to pay several required "adequate protection" payments to Baker (or its predecessor in interest). See dkt. 131, pp. 4:27-5:16. Again, Debtor has not contested that issue.

As for "gross mismanagement" or "substantial or continuing loss" or "diminution," this Court previously has expressed concerns (both at hearings and in the tentative ruling for 2/5/19, part "(1)(a)," reproduced below). The MTD alleges (dkt. 131, p.4:1-21) that Debtor has lost over \$44,000 since this case was filed on 10/14/18, despite approximately \$41,000 in cash infusions by Debtor's principal. Again, Debtor has not contested this issue.

True, Debtor has shown a modest amount of improvement recently. In addition, this Court is not persuaded that a sale of property can never be a "rehabilitation" - to the contrary, Debtor alleges that it has engaged in both physical rehabilitation (repairing the premises, installing safety equipment, etc.) and management rehabilitation (terminating management that was embezzling, restoring online booking services, etc.), so the most significant issues appear to be (A) whether there is a "reasonable" likelihood that taxes will be paid and that the (modest) recent progress will offset the prior losses, and (B) whether there is sufficient "justification" (under 11 U.S.C. 1112(b)(2)(B)(i)) for prior failure to pay taxes, mismanagement, losses, and failure to comply with the budget approved by this Court's orders.

On the present record, the tentative ruling is that Debtor has not met its burden to provide evidence of those things. Debtor offers no justification for its principal not living up to her commitment to pay real estate taxes or for postpetition mismanagement by current management; and as noted above there is no section 363 sale motion on file, pursuant to which a purchaser might cure that non-payment or, perhaps, cure other issues.

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... JDS Hospitality Group, LLC

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

[OMITTED]

Tentative Ruling for 3/5/19:

[OMITTED]

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #3, Dec. 2018, dkt. 71; Decl. dkt. 75)

Debtor's recently reported finances are dismal, as noted in the tentative ruling for 1/8/19. It appears that Debtor's occupancy rate is less than half of what was projected (which is itself less than half of available rooms), and that Debtor is failing to pay some franchise fees, utilities, housekeeping expenses, and other items.

Debtor blames outages in its online booking services, but as noted in the limited opposition to extending exclusivity (dkt. 78) filed by First Choice Bank, Debtor's behavior in the face of problems with online booking is puzzling. Why did Debtor not proactively contact the online booking agencies around the time it filed its bankruptcy petition? Why did Debtor not monitor its own finances sufficiently to realize that those agencies had not been paid? Debtor asserts that it was given no advance notice, but that seems highly unusual, so where is evidence of the telephone calls, emails, and letters immediately reacting, objecting to being cut off with no prior notice, and offering immediate payment of any missed bills? This Court takes judicial notice that the booking agencies are large enough to be familiar names, and presumably they have experienced hotel bankruptcies before, so what reasons did they give for their alleged lack of notice and over-reaction? As

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CONT... **JDS Hospitality Group, LLC**

Chapter 11

the bank suggests, the outages in booking were long enough that one would expect Debtor to have made repeated and considerable efforts to resolve the situation, possibly including meetings in person, but there is no evidence of that.

All of the foregoing suggests "gross mismanagement" of the estate, which is one possible basis to dismiss or convert this case. 11 U.S.C. 1112(b)(4)(B). The facts recited above also appear to constitute a "substantial" loss or diminution of the estate, and calls into question whether there is a "reasonable likelihood of rehabilitation." 11 U.S.C. 1112(b)(4)(A). In addition, these facts call into question whether Debtor will be able to meet the feasibility test for any proposed plan. 11 U.S.C. 1129(a)(11).

The parties are directed to address whether this case should be dismissed or converted.

(b) Alleged infusions

There have been promises during this case that cash infusions would be made by Debtor's principal, Rhonda Chung. The Status Report (dkt. 79, p.4:8-21) alludes to some, but the precise dollars amounts are generally unclear, as are the dates, and precisely how those dollars been used. The tentative ruling is to set a deadline of 2/12/19 (if this case is not dismissed) for Ms. Chung to file a declaration, with attached evidence, addressing each of these things.

(c) Employment of bankruptcy counsel (dkt. 47, 51, 56, 67, 68, 71)

Have the objections of the United States Trustee (dkt. 51) been resolved?

(c) Motion to Extend Exclusivity Periods (dkt. 73)

Debtor is directed to addressing the issues raised by First Choice Bank's Opposition (dkt. 78).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/5/19 at 1:00 p.m., *brief* status report due 2/26/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... JDS Hospitality Group, LLC

Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Debtor's status report (dkt. 72) attempts to put the best face on a dismal record of recent operations. Should this Court set deadlines to sell the estate's property/business, or impose other performance metrics and establish consequences for failure to satisfy those metrics?

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: 1/31/19 (timely served, dkt. 64).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

[OMITTED]

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CONT... JDS Hospitality Group, LLC

Chapter 11

Tentative Ruling for 10/23/18:
[OMITTED]

Tentative Ruling for 10/17/18:
Appearances required.

(1) Current issues

(a) Payroll motion (dkt. 5). As noted in this Court's order setting this hearing (dkt. 10), this Court is concerned about whether this is a self-created emergency. In addition, the parties should be prepared to address the jobs of each person who is proposed to be paid (dkt. 7, Ex.6), whether any of them are "insiders" (11 U.S.C. 101(31)), and how they will be paid if the checks do not clear and other sources of revenue do not come through. Subject to adequately addressing those issues, and (1) confirming notice per this Court's order shortening time (dkt. 10), (2) addressing this Court's concerns in that order, and (3) any objections at the hearing, the tentative ruling is to grant this motion.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt.4). The tentative ruling is to grant this motion, subject to the caveats set forth in the tentative ruling for calendar no. 2 (10/17/18 at 9:00 a.m.).

(2) Deadlines/dates. This case was filed on 10/14/18.

(a) Bar date: TBD.

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m., *brief* status report due 11/20/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... JDS Hospitality Group, LLC

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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Hearing Room 1545

10:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#6.00 Hrg re: Motion to Approve Stipulation with Days Inns Worldwide, Inc.
Regarding Restoration of Debtor to Central Reservation System

Docket 89

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5,
7/23/19 at 10:00 a.m.)

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 23, 2019

Hearing Room 1545

10:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#7.00 Hrg re: Motion to Approve Adequacy of Insurance Coverage

Docket 90

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5,
7/23/19 at 10:00 a.m.)

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
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10:00 AM

2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#8.00 Hrg re: Application to Employ Green Hospitality Partners (GHP) as Hotel Management Services for the Days Inns Bakersfield Hotel located at 818 Real Road, Bakersfield, CA 93309

Docket 95

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5, 7/23/19 at 10:00 a.m.)

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
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10:00 AM

2:15-11214 Michele Viault

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

CITIBANK NA
vs
DEBTOR

Docket 65

***** VACATED *** REASON: Voluntary dismissal of motion [dkt. 67]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michele Viault

Represented By
Matthew D Resnik

Movant(s):

Citibank, N.A.

Represented By
Merdaud Jafarnia
Randy Stacey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:17-10572 Gwenda Cuesta

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 33

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Gwenda Cuesta

Chapter 13

Party Information

Debtor(s):

Gwenda Cuesta

Represented By
Julie J Villalobos

Movant(s):

US Bank Trust National Association

Represented By
Michelle R Ghidotti
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:17-21068 Shane Kevin Williams

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 67

***** VACATED *** REASON: APO Entered 07/26/19 - Dkt. #71**

Tentative Ruling:

Party Information

Debtor(s):

Shane Kevin Williams

Represented By
Nicholas W Gebelt

Movant(s):

Deutsche Bank National Trust

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-11096 Travis Williams

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

RESIDENTIAL BANCORP
vs
DEBTOR

Docket 43

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Travis Williams

Chapter 13

Party Information

Debtor(s):

Travis Williams

Represented By
Michael E Plotkin

Movant(s):

Residential Bancorp

Represented By
Asya Landa

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#5.00 Hrg re: Motion for relief from stay [RP]

THE GOLD 401k PROFIT SHARING PLAN
& TRUST, JONATHAN B. BROOKS, TR.
VS
DEBTOR

Docket 112

***** VACATED *** REASON: Continued per stipulation (dkt. 115) and
order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Robert A Brown

Movant(s):

The Gold 401K Profit Sharing Plan

Represented By
Martin W. Phillips

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Asa S Hami

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-21222 Salvador Ernesto Gomez and Ruth Beatriz Gomez

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

FREEDOM MORTGAGE CORPORATION
vs
DEBTOR

Docket 39

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Salvador Ernesto Gomez and Ruth Beatriz Gomez

Chapter 13

Party Information

Debtor(s):

Salvador Ernesto Gomez

Represented By
Raymond Perez

Joint Debtor(s):

Ruth Beatriz Gomez

Represented By
Raymond Perez

Movant(s):

Freedom Mortgage Corporation

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-22260 Latoni Michelle Robinson

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 35

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Latoni Michelle Robinson

Represented By
Nicholas M Wajda

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-23524 Jason Azizieh and Alma Azizieh

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jason Azizieh

Represented By
Erika Luna

Joint Debtor(s):

Alma Azizieh

Represented By
Erika Luna

Movant(s):

WELLS FARGO BANK N.A., AS

Represented By
Sean C Ferry

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10:00 AM

CONT... Jason Azizieh and Alma Azizieh

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-23610 Maria Marina Arjona Ibarra

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 36

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Maria Marina Arjona Ibarra

Represented By
Donna R Dishbak

Movant(s):

THE BANK OF NEW YORK

Represented By
Sean C Ferry
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-24843 Sandra Maribel Mejia

Chapter 13

#10.00 Hrg re: Motion for relief from stay [RP]

CENLAR FSB
vs
DEBTOR

Docket 42

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 46).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sandra Maribel Mejia

Represented By
Scott Kosner

Movant(s):

Cenlar FSB as servicer for

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

10:00 AM

2:19-10155 Andrew Pantoja Ayala

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

US BANK TRUST NA
vs
DEBTOR

Docket 31

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrew Pantoja Ayala

Represented By
Axel H Richter

Movant(s):

US Bank Trust NA

Represented By
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-10825 Tracy Allen Poe

Chapter 13

#12.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 21

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because, although there is evidence of unauthorized transfers of the subject property, those transfers appear to have been part of inheritance planning rather than being part of a scheme to hinder, delay, or defraud the

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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... **Tracy Allen Poe**
movant.

Chapter 13

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tracy Allen Poe

Represented By
D Justin Harelik

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-10825 Tracy Allen Poe

Chapter 13

#12.10 Hrg re: Motion for relief from stay [RP]

DAVID POSNER
vs
DEBTOR

Docket 19

Tentative Ruling:

Appearances required.

This Court has reviewed the Motion (dkt. 19), notice (dkt.23), and the other filed documents in this case, and it appears that the parties need to address the following issues.

(1) Who owns the subject property?

From this Court's review of the documents, it is unclear whether Mr. Walter Edgar Poe has passed (there is no evidence of that), whether his estate was properly probated, whether the Water Edgar Poe Living Trust dated 10/23/13 (the "2013 Trust") is the operative trust document, or whether some other document such as the Walter E. Poe Revocable Living Trust dated 2/26/08 (the "2008 Trust") is operative. The 2013 Trust appears to grant an interest in the property to Ms. Kathie Denise Wargo and grants Debtor and his brother, Thomas Allen Poe, \$5.00. Dkt. 19 at PDF pp. 29-30. In addition, the Motion includes a copy of a revocation of the 2008 Trust. Dkt. 19 at PDF p.32. But Debtor's Bankruptcy Schedule A/B states that the property went through probate and was transferred into Debtor's name in August 2018. Dkt. 1 at 12. The parties' representations appear to be inconsistent. Should the parties' disputes regarding ownership of the subject property be resolved in Probate Court, another State Court, or this Bankruptcy Court?

(2) Service

Movant has not served Kathie Denise Wargo, who appears to be a beneficiary of the 2013 Trust and the trustee, who entered into the Deed of

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CONT... Tracy Allen Poe

Chapter 13

Trust on which the Motion appears to be based (dkt. 19 at PDF p. 15). The tentative ruling is that Ms. Wargo, and any other potential beneficiaries, need to be served.

(3) What relief does the Motion seek?

Is the Movant seeking relief from the automatic stay to return to Probate Court, or some other State Court, to determine who owns the property? Or is the Movant seeking relief from the automatic stay for other remedies against the property, or against Debtor individually, including assertion of any secured or unsecured claim? This Bankruptcy Court is inclined to modify the automatic stay to permit litigation to determine the parties' respective rights in the property, but not to grant any relief that would prejudice the bankruptcy estate or that would evade the priorities for various types of claims established by the Bankruptcy Code.

(4) Conclusion

The tentative ruling is to continue the hearing to 9/10/19 at 10:00 a.m. with a deadline of 8/9/19 for Movant to serve file and serve a supplement to the Motion to address the foregoing issues, and to serve the Motion and Notice of the Continued Hearing on all potential beneficiaries parties.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tracy Allen Poe

Represented By
D Justin Harelik

Movant(s):

David Posner

Pro Se

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CONT... Tracy Allen Poe

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:19-12322 Tammy Javonillo-Zimmerman

Chapter 13

#13.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 26

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 30).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tammy Javonillo-Zimmerman

Represented By
Thomas B Ure

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nancy L Lee
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-12352 Antonio S Pastrano

Chapter 7

#14.00 Hrg re: Motion for relief from stay [RP]

BROKER SOLUTIONS, INC.
vs
DEBTOR

Docket 32

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Antonio S Pastrano

Chapter 7

Party Information

Debtor(s):

Antonio S Pastrano

Represented By
Marc A Goldbach

Movant(s):

Broker Solutions, Inc. dba New

Represented By
Nathan F Smith

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-12443 Antonio Guerrero, Jr.

Chapter 13

#15.00 Hrg re: Motion for relief from stay [RP]

FREEDOM MORTGAGE CORPORATION
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Antonio Guerrero, Jr.

Chapter 13

Party Information

Debtor(s):

Antonio Guerrero Jr.

Represented By
Gregory M Shanfeld

Movant(s):

Freedom Mortgage Corporation

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-15251 Katherine Crabtree Cook

Chapter 13

#16.00 Hrg re: Motion for relief from stay [RP]

WEBSTER BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 20

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they will agree to the terms requested by Debtor - no foreclosure sale for 90 days - but with "*in rem*" relief so that no future bankruptcy case will further delay the creditor's exercise of its remedies (see the debtor's response, dkt. 26, and movant's reply, dkt. 27).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Katherine Crabtree Cook

Represented By
Kevin T Simon

Movant(s):

Webster Bank, National Association

Represented By
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-15951 Richard Palacio

Chapter 13

#17.00 Hrg re: Motion for relief from stay [RP]

HSBC BANK USA, NATIONAL ASSOC
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant as provided below. Notwithstanding Debtor's response (dkt. 22), this case has been dismissed so Debtor cannot pay Movant through his chapter 13 plan, and in addition there is no evidence that any proposed payment was feasible. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed (dkt. 23). That terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In addition, there is no automatic stay because (a) Debtor's prior case (#2:19-bk-12682-NB) was dismissed (on 3/12/19) within one year before this case was filed (on 5/21/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. 11 U.S.C. 362(c)(3) and (j). The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

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CONT... **Richard Palacio**

Chapter 13

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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CONT... Richard Palacio

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Richard Palacio

Represented By
Angela R Swan

Movant(s):

HSBC Bank USA, National

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-16249 Jose Diaz

Chapter 7

#18.00 **[CASE DISMISSED 07/19/2019]**

Hrg re: Motion for relief from stay [RP]

HSBC BANK USA

vs

DEBTOR

Docket 18

Tentative Ruling:

Grant as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

There is no automatic stay

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In addition and in the alternative the tentative ruling is to grant the following relief.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

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Jose Diaz

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If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have

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Jose Diaz

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any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Diaz

Pro Se

Movant(s):

HSBC Bank USA, National

Represented By
Angie M Marth

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-16977 Jason Jenkins

Chapter 13

#19.00 Hrg re: Motion for relief from stay [RP]

MAGNUM PROPERTY INVESTMENTS, LLC
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise

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ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice. See dkt. 18.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... Jason Jenkins

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jason Jenkins

Pro Se

Movant(s):

Strategic Acquisitions, Inc.

Represented By
Harris L Cohen

Magnum Property Investments, LLC

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-16977 Jason Jenkins

Chapter 13

#20.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 21

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise

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ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jason Jenkins

Pro Se

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16977 Jason Jenkins

Chapter 13

#21.00 Hrg re: Motion for relief from stay [UD]

PALMER/BOSTON ST. PROPERTIES II
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jason Jenkins

Pro Se

Movant(s):

Palmer/Boston St. Properties II, A

Represented By
Joseph Cruz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-17810 Sergio Antonio Nieto

Chapter 7

#22.00 Hrg re: Motion for relief from stay [PP]

BANK OF AMERICA, NA
vs
DEBTOR

Docket 40

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 7

Party Information

Debtor(s):

Sergio Antonio Nieto

Represented By
Heather J Canning

Movant(s):

Bank of America, N.A.

Represented By
Megan E Lees
Robert P Zahradka

Trustee(s):

Sam S Leslie (TR)

Pro Se

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2:18-13303 Ryan Gregory Ortiz and Debra Diane Ortiz

Chapter 13

#23.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 42

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Gregory Ortiz

Represented By
Charles J Brash

Joint Debtor(s):

Debra Diane Ortiz

Represented By
Charles J Brash

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-17007 Martha Milagros Noy-Taylor

Chapter 13

#24.00 Hrg re: Motion for relief from stay [PP]

FORD MOTOR CREDIT COMPANY, LLC
vs
DEBTOR

Docket 31

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Martha Milagros Noy-Taylor

Represented By
Hale Andrew Antico

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-15996 Jose Nelson Solis Broce

Chapter 13

#25.00 Hrg re: Motion for relief from stay [PP]

PASADENA SERVICE FEDERAL CREDIT UNION
VS
DEBTOR

Docket 16

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 20, and Movant's reply, dkt. 27).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Nelson Solis Broce

Represented By
Lionel E Giron

Movant(s):

Pasadena Service Federal Credit

Represented By
Amanda N Ferns

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16288 Stacie Michelle Mohler

Chapter 7

#26.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA, INC.
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:19-bk-12371-BR) was dismissed (on 5/22/19) within one year before this case was filed (on 5/30/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

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CONT... Stacie Michelle Mohler

Chapter 7

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Stacie Michelle Mohler

Represented By
Hale Andrew Antico

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

John J Menchaca (TR)

Pro Se

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2:16-17909 Yolanda Wing Yee Lee

Chapter 13

#27.00 Hrg re: Motion for relief from stay [PP]

TOYOTO MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 49

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Yolanda Wing Yee Lee

Chapter 13

Party Information

Debtor(s):

Yolanda Wing Yee Lee

Represented By
D Justin Harelik

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-15354 Yunes Abud Nabils

Chapter 13

#28.00 Hrg re: Motion for relief from stay [UD]

ASHOK MADAN
vs
DEBTOR

Docket 16

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

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CONT... Yunes Abud Nabils

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Yunes Abud Nabils

Represented By
Nicholas M Wajda

Movant(s):

Ashok Madan

Represented By
Dana J Seyler

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-15854 Briana J Rosales

Chapter 7

#29.00 Hrg re: Motion for relief from stay [UD]

STEPHEN MASULA
vs
DEBTOR

Docket 23

Tentative Ruling:

Grant in part and deny in part as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003).

Relief notwithstanding *future* bankruptcy cases.

Deny, without prejudice to renewal of this request and without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). See dkt. 23, p.5, para.7 (requesting

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CONT... **Briana J Rosales**

Chapter 7

that eviction be permitted regardless of any future bankruptcy filing for a period of 180 days).

The tentative ruling is to deny that request for lack of service on the persons who executed the documents through which the movant asserts its interest in the property (sometimes referred to in the leasehold context as the "original lessor"). Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Francisco Rosales. See dkt. 23 at PDF p.13.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Briana J Rosales

Pro Se

Movant(s):

Stephen Masula

Represented By
Luat Cao

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Trustee(s):

Peter J Mastan (TR)

Pro Se

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2:19-17327 Javier Ramos

Chapter 13

#30.00 Hrg re: Motion for relief from stay [UD]

MOSS AND COMPANY
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Javier Ramos

Chapter 13

Party Information

Debtor(s):

Javier Ramos

Pro Se

Movant(s):

Moss and Company

Represented By
Luke P Daniels

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-17327 Javier Ramos

Chapter 13

#31.00 Hrg re: Motion for relief from stay [UD]

MARCY STRAUSS
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

There is no automatic stay

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In addition and in the alternative, this Court grants the following relief.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within

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Javier Ramos

Chapter 13

two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this might be a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you

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CONT... Javier Ramos

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Javier Ramos

Pro Se

Movant(s):

Marcy Strauss

Represented By
Dana J Seyler

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-17577 Bob Elias

Chapter 7

#32.00 [CASE DISMISSED ON 7/16/19]

Hrg re: Motion for relief from stay [UD]

EDGAR AND ASUNCION LOUALHATI
vs
DEBTOR

Docket 11

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 15).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Bob Elias

Pro Se

Movant(s):

Edgar and Asuncion Loualhati

Represented By
Helen G Long

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-17818 Ruben N Pacheco

Chapter 7

#33.00 Hrg re: Motion for relief from stay [UD]

WANG YANG ENTERPRISES, LLC
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including

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10:00 AM

CONT...

Ruben N Pacheco

Chapter 7

any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ruben N Pacheco

Pro Se

Movant(s):

Wang Yang Enterprises LLC

Represented By
Henry D Paloci

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Ruben N Pacheco

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-17669 Rafael Macias and Silvia Jauregui

Chapter 13

#34.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 6

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

Key documents reviewed (other than the motion papers): exhibit #7.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Rafael Macias and Silvia Jauregui Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rafael Macias

Represented By
Kevin T Simon

Joint Debtor(s):

Silvia Jauregui

Represented By
Kevin T Simon

Movant(s):

Rafael Macias

Represented By
Kevin T Simon

Silvia Jauregui

Represented By
Kevin T Simon
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-17796 William Smith, Jr.

Chapter 13

#35.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 6

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

Key documents reviewed (other than the motion papers): exhibit #7.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... William Smith, Jr.

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

William Smith Jr.

Represented By
Kevin T Simon

Movant(s):

William Smith Jr.

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-17830 Myesha Nicole Sherrer

Chapter 13

#36.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 9

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Myesha Nicole Sherrer Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Myesha Nicole Sherrer

Represented By
Andrew Moher

Movant(s):

Myesha Nicole Sherrer

Represented By
Andrew Moher

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:14-33694 Manuel Venegas

Chapter 13

#37.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/04/19

HSBC BANK USA, N.A.
vs
DEBTOR

Docket 34

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Manuel Venegas

Represented By
Matthew D Resnik

Movant(s):

HSBC Bank USA, N.A.

Represented By
Keith Labell
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:17-11163 Linet Morin

Chapter 13

#38.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/9/19

CITIBANK, NA.
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 7/30/19 (same as for 7/9/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's late-filed response, dkt.36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Linet Morin

Represented By
Peter L Lago - SUSPENDED -
Kerry P O'Brien

Movant(s):

Citibank, N.A., as Trustee, in trust

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Linet Morin

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-15232 Thelma Gladis Gonzalez

Chapter 13

#39.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/04/19

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 50

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Thelma Gladis Gonzalez

Represented By
Matthew D Resnik

Movant(s):

U.S. Bank National Association, as

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-15891 Veronica Verdin

Chapter 13

#40.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/04/19

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 23

Tentative Ruling:

Tentative Ruling for 7/30/19 (same as for 6/4/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 25).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Veronica Verdin

Represented By
Thomas B Ure

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry
Eric P Enciso
Theron S Covey

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Veronica Verdin

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-18060 Magdalena Avila

Chapter 13

#41.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/2/19

BBV PROFIT SHARING PLAN
VS
DEBTOR

Docket 44

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Magdalena Avila

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

BBV profit sharing plan

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-22228 Jaime Ortega and Luz Adriana Ortega

Chapter 13

#42.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/9/19

HOME POINT FINANCIAL CORPORATION
vs
DEBTOR

Docket 36

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Jaime Ortega and Luz Adriana Ortega Chapter 13
by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jaime Ortega

Represented By
Devin Sawdayi

Joint Debtor(s):

Luz Adriana Ortega

Represented By
Devin Sawdayi

Movant(s):

Home Point Financial Corporation

Represented By
D Anthony Sottile
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-24104 Sharon Whitaker

Chapter 13

#43.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19

WELLS FARGO BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 37

Tentative Ruling:

Tentative Ruling for 7/30/19:

Appearances required. At the hearing on 5/21/19, the parties indicated that they were working on an adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

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Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Sharon Whitaker Chapter 13
present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sharon Whitaker

Represented By
Erika Luna

Movant(s):

WELLS FARGO BANK,

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:18-24431 Cheryl Hattie Williams

Chapter 13

#44.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/2/19

BANKUNITED N.A.
VS
DEBTOR

Docket 27

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Cheryl Hattie Williams

Represented By
Sam Benevento

Movant(s):

BankUnited N.A.

Represented By
Asya Landa

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-10005 Luis Alberto Bravo

Chapter 7

#45.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/2/19

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 67

Tentative Ruling:

Tentative Ruling for 7/30/19:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding *future* bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because this matter was continued from the hearing on 7/2/19 for additional service of the motion papers on the original borrower and as of the preparation of this tentative ruling the docket does not reflect any timely proof of the required service.

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Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Luis Alberto Bravo

Chapter 7

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/2/19:

Continue to 7/30/19 at 10:00 a.m. to address the following issues.

Appearances are not required on 7/2/19.

Reasons:

The Motion seeks *in rem* relief and so the "Movant must serve the person(s) who executed the documents through which the Movant asserts its interest in the property." LBR 4001-(c)(1). In this instance that person appears to be Rosezita Sargent (see dkt. 67, part 1 at PDF p.14, and part 2 at PDF p.2).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Luis Alberto Bravo

Chapter 7

Debtor(s):

Luis Alberto Bravo

Represented By
Brad Weil

Movant(s):

U.S. Bank Trust National

Represented By
Kristin A Zilberstein

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-11063 Franklin Duell Kates

Chapter 13

#46.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/18/19, 7/9/19

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 26

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Franklin Duell Kates

Represented By
Barry E Borowitz

Movant(s):

The Bank of New York Mellon FKA

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:19-16781 Walter Donzel Duarte

Chapter 13

#47.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/9/19

MILESTONE FINANCIAL, LLC
vs
DEBTOR

Docket 9

Tentative Ruling:

Tentative Ruling for 7/30/19:

Appearances required. The parties should be prepared to address whether Debtor is current on chapter 13 plan payments and adequate protection payments. See Order (dkt. 25).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/9/19:

Grant as provided below, primarily because (1) Debtor has not filed contribution declarations, with evidence of the contributors' willingness and ability to make sufficient contributions to support a feasible chapter 13 plan; (2) Debtor's hope of a refinance appears unrealistic; and (3) given the lack of apparent feasibility of this chapter 13 case, Movant has made a *prima facie* showing that Debtor and his mother have engaged in nothing more than a "scheme" to "delay" and "hinder" Movant's exercise of its remedies, involving multiple (two) bankruptcies, and alternatively involving a transfer in violation of the loan documents, and therefore "*in rem*" relief is appropriate. See dkt. 9, 18, 21. Appearances required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Walter Donzel Duarte

Chapter 13

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Late-filed opposition

The tentative ruling is to excuse the lateness of the opposition papers because it is understandable for Debtor and his mother, having only recently retained present counsel, to need additional time to respond. See dkt. 19.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

CONT... Walter Donzel Duarte

Chapter 13

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Walter Donzel Duarte

Represented By
William J Smyth

Movant(s):

Milestone Financial, LLC

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

10:00 AM

2:14-31310 Jose W. Henriquez and Glenda P. Henriquez

Chapter 13

#48.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 7/2/19

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 97

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Jose W. Henriquez

Represented By
Michael A Rivera - INACTIVE -
Kevin T Simon

Joint Debtor(s):

Glenda P. Henriquez

Represented By
Michael A Rivera - INACTIVE -
Kevin T Simon

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:16-17461 Richard A Sorci and Judy E Sorci

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Timothy Yoo, Chapter 7 trustee]
fr. 7/16/19

Docket 242

Tentative Ruling:

Allow \$2,200.00 in fees and \$126.73 in expenses, for a total of \$2,326.73.
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Richard A Sorci	Pro Se
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Joint Debtor(s):

Judy E Sorci	Pro Se
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Trustee(s):

Timothy Yoo (TR)	Represented By Carmela Pagay Jeffrey L Sumpter
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:16-17461 Richard A Sorci and Judy E Sorci

Chapter 7

#2.00 Hrg re: Application for final fees and/or expenses
[Filed by Levene, Neale, Bender, Yoo & Brill L.L.P.,
Attorneys for Chapter 7 Trustee]

Docket 238

Tentative Ruling:

Allow \$27,474.50 in fees, with a distribution capped at \$24,000.00 (see dkt. 251, p.2) plus \$290.14 in expenses, for a total of \$24,290.14.
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Richard A Sorci Pro Se

Joint Debtor(s):

Judy E Sorci Pro Se

Trustee(s):

Timothy Yoo (TR) Represented By
Carmela Pagay
Jeffrey L Sumpter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... Richard A Sorci and Judy E Sorci

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:19-11831 Charles S Dickens

Chapter 7

Adv#: 2:19-01157 Twisted Oliver Holdings, LLC v. Dickens

#3.00 Status conference re: Complaint to deny discharge (11 U.S.C. section 727)

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the parties' joint status report (adv. dkt. 8) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... Charles S Dickens

Chapter 7

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 8/13/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/28/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 9/10/19

Continued status conference: 9/24/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... Charles S Dickens

Chapter 7

Debtor(s):

Charles S Dickens

Represented By
Eric Bensamochan

Defendant(s):

Charles S Dickens

Represented By
Eric Bensamochan

Plaintiff(s):

Twisted Oliver Holdings, LLC

Represented By
Holly Walker

Trustee(s):

Wesley H Avery (TR)

Represented By
Kathy Bazoian Phelps

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#4.00 Status conference re: Removal

Docket 1

***** VACATED *** REASON: Cont'd to 8/6/19 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Montserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Represented By
Michael J Khouri

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Plaintiff(s):

Cathay Bank, a California banking

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... Schaefer Ambulance Service, Inc

Chapter 11

Michael G Fletcher
Reed S Waddell
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:18-24615 Maricela Correa Contreras

Chapter 13

Adv#: 2:19-01087 Rizo v. Contreras

#5.00 Status Conference re: Complaint to Determine Dischargeability

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the filed documents and records in this adversary proceeding. The parties should be prepared to address the following issues.

Preliminary issues

- (a) The parties have not filed a joint status report. Why?
- (b) In a prior case (2:11-bk-42321-SK), the parties stipulated to, and the Bankruptcy Court ordered, nondischargeability under 11 U.S.C. 523(a)(4). See adv. dkt. 1, Ex.B. Debtor's Plan (dkt. 24) provides for 100% dividend, and was confirmed (dkt. 29). Based on the foregoing, is there any reason why the parties will not stipulate to a judgment on this complaint (per 11 U.S.C. 1328(a)(4))? The tentative ruling is to set a continued status conference, as set forth below, to give the parties time to file such a stipulation and lodge a proposed order approving the same.

The following are Judge Bason's standard requirements for status conferences (except that that provisions regarding mediation have been omitted because they appear to be unnecessary). (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... **Maricela Correa Contreras**

Chapter 13

See generally Stern v. Marshall, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Deadlines: This adversary proceeding has been pending since 3/26/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 8/13/19

Continued status conference: 8/20/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... Maricela Correa Contreras

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maricela Correa Contreras

Represented By
Sunita N Sood

Defendant(s):

Maricela Correa Contreras

Represented By
Sunita N Sood

Plaintiff(s):

Laura Rizo

Represented By
Chad M Gordon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:18-20602 Luz Franco

Chapter 7

Adv#: 2:19-01091 Franco v. United States of America Department of Treasury In

#6.00 Status Conference re: Complaint to Determine
Dischargeability of Tax Liability

Docket 1

***** VACATED *** REASON: Notice of Voluntary Dismissal filed
06/30/2019 [dkt. 10]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luz Franco

Represented By
Bruce A Boice
Bruce A Boice

Defendant(s):

United States of America

Represented By
Melissa Briggs

Plaintiff(s):

Luz Franco

Represented By
Bruce A Boice

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

- #7.00** Status Conference re: Complaint for (1) Wrongful Foreclosure;
(2) Violation of California Civil Code § 2934a(a)(1)(A)(C)(D);
(3) Intentional Misrepresentation; (4) Negligent Misrepresentation;
(5) Violation of California Business & Professions Code § 17200, Et Seq.;
(6) Violation of Homeowner Bill of Rights ("HBOR"); (7) Breach of Contract;
(8) Fraud; (9) False Promise; (10) Intentional Infliction of Emotion Distress;
(11) Negligent Infliction of Emotional Distress; (12) Declaratory Relief;
(13) Violation of Automatic Stay

Docket 1

Tentative Ruling:

Continue to 8/20/19 at 2:00 p.m. (1) in view of the notice of unavailability of Plaintiff/Debtor's counsel (adv. dkt. 20) and (2) to be concurrent with the pending motions to dismiss (adv. dkt. 8, 11, 15). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... Juvernaldo Cordon Cruz

Chapter 11

FAY SERVICING, LLC

Represented By
Nichole Glowin

Wilmington Savings Fund Society,

Represented By
Nichole Glowin

National Default Servicing

Represented By
Robert P Zahradka

BSI Financial Services, Inc.

Represented By
Nichole Glowin

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:19-01156 Gonzalez v. Karen

#8.00 Status conference re: Complaint to avoid and recover preferential transfer [11 U.S.C. sections 547(b), 550, 551]

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the parties' joint status report (adv. dkt. 5) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... **David MacMillan**

Chapter 7

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 8/13/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/28/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 9/10/19

Continued status conference: 9/24/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

CONT... David MacMillan

Chapter 7

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David M. Karen

Represented By
Keith S Dobbins

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:19-10153 Christian Rossil

Chapter 7

Adv#: 2:19-01138 Rossil v. Ruan Partida et al

#9.00 Status conference re: Complaint for a determination of the validity, priority or extent of liens and security interests

Docket 1

Tentative Ruling:

Continue to 9/19/19 at 11:00 a.m. to provide the newly-appointed Chapter 7 Trustee an opportunity to meet and confer with the defendants (see adv. dkt. 8). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Defendant(s):

Daniel Ruan Partida

Represented By
Lazaro E Fernandez

Sergio Salgado

Pro Se

Plaintiff(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
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Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:19-10153 Christian Rossil

Chapter 7

Adv#: 2:19-01089 Rossil v. Moreno

#10.00 Cont'd Status Conference re: Complaint for a Determination of the Validity, Priority or Extent of Liens and Security Interests fr. 06/04/19

Docket 1

Tentative Ruling:

Continue to 9/19/19 at 11:00 a.m. to provide the newly-appointed Chapter 7 Trustee an opportunity to review the order incorporating the parties' resolution of this matter (see dkt. 66 and adv. dkt. 7). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Defendant(s):

Laura Z. Nalvarte Moreno

Pro Se

Plaintiff(s):

Christian Rossil

Represented By
Todd B Becker

**United States Bankruptcy Court
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Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

#10.00 Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt Pursuant to Sections 523 and 727 of the United States Bankruptcy Code fr. 9/4/18,10/9/18, 11/27/18, 01/08/19, 2/5/19, 03/05/19, 04/30/19, 06/04/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Continue to 9/19/19 at 11:00 a.m., with a brief status report due 9/5/19 addressing whether the required settlement payments have been made, and any other issues regarding the parties' settlement (as reported at the status conference on 6/4/19). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties are directed to address why the docket does not reflect any steps to finalize their reported settlement (*e.g.*, a motion in this adversary proceeding to approve a stipulated judgment, and/or if necessary a motion in the bankruptcy case to approve a settlement per Rule 9019, Fed. R. Bankr. P.). This adversary proceeding has been pending since 6/22/18.

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CONT... Douglas Lawrance DeCoster

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue this status conference to 6/4/19 at 11:00 a.m. so that the parties can document their settlement and obtain any approval of Court that may be necessary or appropriate. See Status Report (adv. dkt. 19). Appearances are not required on 4/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required.

The parties are directed to address (1) why no status report was filed as required by the adopted 2/5/19 tentative ruling, and (2) whether the parties have scheduled and/or attended mediation.

The tentative ruling is to continue this status conference to 4/9/19 at 11:00 a.m, with a brief status report due by 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Douglas Lawrance DeCoster

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue to 3/5/19 at 11:00 a.m, with a brief status report due by 2/26/19. Although the latest Status Report (adv. dkt. 16) does not address whether the mandatory mediation ordered by this Court has occurred, it appears that more time is needed for mediation. Caution: If the parties do not schedule and attend mediation before the next status conference, this Court may impose sanctions on the recalcitrant party(ies). Appearances are not required on 2/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19. Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Douglas Lawrance DeCoster

Chapter 7

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be continued? Should this adversary proceeding be dismissed for lack of prosecution?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. *Cf.* adv. dkt. 7 (belated request for mediation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Douglas Lawrance DeCoster

Chapter 7

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed

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CONT... **Douglas Lawrance DeCoster** **Chapter 7**

order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By
Charles J Brash

Plaintiff(s):

Sharon Graner

Represented By
Stephen B Goldberg

Kieran Graner

Represented By
Stephen B Goldberg

**United States Bankruptcy Court
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CONT... Douglas Lawrance DeCoster

Chapter 7

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, July 30, 2019

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11:00 AM

2:19-12152 Vera Pharma Siegert

Chapter 7

Adv#: 2:19-01101 Vaquerano et al v. Siegert et al

#11.00 Hrg re: Amended Motion for Default Judgment

Docket 12

Tentative Ruling:

Please see tentative ruling in status conference (calendar no. 12, 7/30/19 at 11:00 a.m.).

Party Information

Debtor(s):

Vera Pharma Siegert

Represented By
Christopher S Reyes

Defendant(s):

Norma Pharma Siegert

Pro Se

Eklin Ochoa Siegert

Pro Se

Joint Debtor(s):

Elkin Ochoa Siegert SR

Represented By
Christopher S Reyes

Plaintiff(s):

Jimmy Vaquerano

Represented By
Shalem Shem-Tov

Norma Rivas

Represented By
Shalem Shem-Tov

Maria Vaquerano

Represented By
Shalem Shem-Tov

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:19-12152 Vera Pharma Siegert

Chapter 7

Adv#: 2:19-01101 Vaquerano et al v. Siegert et al

#12.00 Cont'd status conference: Complaint to determine the dischargeability of a debt pursuant to 11 U.S.C. section 523(a)(2)(A) and 523(a)(6) fr. 6/11/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Appearances are not required.

Current Issues

(a) Request for Judicial Notice (dkt. 13)

Grant.

(b) Motion for Default Judgment (dkt. 12).

The tentative ruling is to grant the Motion for Default Judgment and find that Plaintiff's state court judgment of \$883,858.25, plus post-judgment interest and costs, is not dischargeable under 11 U.S.C. 523(a)(2)(A) and 11 U.S.C. 523(a)(6) as to Debtors. The motion does not address attorney fees, and the tentative ruling is to deny without prejudice any request for attorney fees.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/11/19:

Continue this status conference to 7/30/19 at 11:00 a.m., to provide Plaintiffs with sufficient time to file a motion for a default judgment. See adv. dkt. 5 through 8. Appearances are not required on 6/6/19.

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CONT... Vera Pharma Siegert

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Vera Pharma Siegert

Represented By
Christopher S Reyes

Defendant(s):

Norma Pharma Siegert

Pro Se

Eklin Ochoa Siegert

Pro Se

Joint Debtor(s):

Elkin Ochoa Siegert SR

Represented By
Christopher S Reyes

Plaintiff(s):

Jimmy Vaquerano

Represented By
Shalem Shem-Tov

Norma Rivas

Represented By
Shalem Shem-Tov

Maria Vaquerano

Represented By
Shalem Shem-Tov

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, July 30, 2019

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19

Docket 323

Tentative Ruling:

Tentative Ruling for 7/30/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases and associated matters: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol.").

(b) Affeld Grivakes LLP v. Pachulski (Adv. No 19-ap-01028-NB)

Plaintiff filed a notice of lodgment of a mediation order (dkt. 7) but this Court's records do not reflect that any such order was actually lodged.

That order contemplated that the mediation would occur on July 25, 2019. Did it? Is the matter settled, still in mediation, or has mediation concluded without any settlement?

The tentative ruling is to continue the status conference in this adversary proceeding to the same time as the continued status conferences in the main cases (see below), with no written status report required.

(c) Pimental v. Layfield and Affled Grivakes LLP (Adv. No. 19-ap-01069-NB)

This Court has reviewed the status report (dkt. 22) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

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CONT... Layfield & Barrett, APC

Chapter 11

(i) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(ii) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 8/13/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

Additionally, the tentative ruling is to continue the status conference in this *Pimental v. Layfield* adversary proceeding to 10/1/19 at 2:00 p.m. to be heard in conjunction with the Motion to Dismiss, with no status report required.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

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CONT...

Layfield & Barrett, APC

Chapter 11

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 10/1/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol").

(b) Pachulski v. Young, et al (Adv. No. 18-01223) (11 U.S.C. 547)

Based on the Joint Status Report (adv. dkt. 28), this Court finds it appropriate to abate any current deadlines in anticipation of cross-motions for summary judgment. This adversary proceeding will be set for a new status conference on 9/10/19 at 11:00 a.m. with no written status report required.

(c) Affeld Grivakes LLP v. Pachulski (Adv. No 19-1028) (Jewel/Heller issues)

At a prior hearing, the parties discussed the possibility of mediation, but wanted time for discovery, as well as time to address the issues with Mr. Alvarez. The tentative ruling is to set a deadline of 6/18/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

The tentative ruling is also to continue the status conference in this adversary proceeding to the same time as the continued status conferences in the main cases (see below).

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CONT... Layfield & Barrett, APC

Chapter 11

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 7/30/19 at 11:00 a.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 4/30/19:

Appearances are not required.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol").

(b) Evidentiary Objections (Lay-Invol dkt. 214) to the Declaration of Philip Layfield (Lay-Invol dkt. 207, last two pages)

Sustain the objections except as to Mr. Layfield's alleged intent to appear at certain scheduled meetings of creditors (11 U.S.C. 341(a)). On that issue, his testimony is at least potentially relevant, because his good or bad faith is one of the facts and circumstances that this Court may consider in determining whether to dismiss this case.

Alternatively, the tentative ruling on the merits (see below) would be unchanged even if this Court were to overrule all of the evidentiary objections to Mr. Layfield's declaration.

(b) Motion to Dismiss (Lay-Invol dkt. 207)

Deny for the reasons stated in the Chapter 7 Trustee's Opposition (dkt. 213). See *also* Joinders (dkt. 215, 216).

In addition, regarding Mr. Layfield's allegations about some sort of

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perceived conflict involving the Chapter 7 Trustee, his arguments are difficult to follow and both procedurally and substantively deficient. This Court has already rejected Mr. Layfield's challenges to the appointment of the Trustee. See dkt. 149, 183. To the extent that Mr. Layfield raises new allegations, there is no explanation why they were not raised before; there is no citation to the standards for reconsideration (e.g., under Rule 9024, Fed.R.Bankr.P.) nor any attempt to meet those standards; and his vague allegations are conclusory statements of opinion and legal conclusions without supporting facts. See dkt. 207, p.4:11-18 & pp. 11:21-12:5 (referencing *In re Adelman*, Case No. 2:15-bk-15952-RK). In addition, this Court has reviewed the docket in the *Adelman* bankruptcy case, including the bankruptcy schedules (*id.* dkt.84), and is unable to discern any disqualifying facts. See 11 U.S.C. 327(c)(attorney's representation of creditor does not by itself disqualify such person from representing trustee).

Proposed Order: Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(3) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 6/4/19 at 11:00 a.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 4/2/19:

Appearances required

(1) General matters

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Layfield & Barrett, APC

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(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154).)

(2) Matters on Calendar Today

(a) Motion for Sale of Property (dkt. 419)

The tentative ruling is to grant the Motion to Sell Units 210 and 220. If the buyer submits a suitable 363(m) declaration, the Court will approve the buyer as a good-faith purchaser.

Proposed Order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Wells Fargo Relief from Stay Motion (dkt. 143)

Based on the above, the tentative ruling is to continue the Relief from Stay Motion to the next status conference date, see below, until the sale is finalized.

(3) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 4/30/19 at 11:00 a.m. to be concurrent with Mr. Layfield's motion to dismiss that case (Lay-Invol. dkt. 207). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 3/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(2) Matters on Calendar Today

(a) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address whether there has been any new information regarding the sale of Units 210 & 220. If there is no progress with a sale, this Court's tentative ruling would be to grant relief from stay as to Units 210 & 220 due to the diminishing equity cushion (dkt. 143). As Unit 200 has been successfully sold, dkt. 144 is moot.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/26//19 at 2:00 p.m. to be concurrent with status conferences in the Lay-Invol case and in an adversary proceeding in the L&B case (Adv. No. 19-1315). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 2/5/18:

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of two related

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bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."). (A third related bankruptcy case, *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA"), has been closed (Max-CA dkt. 154), so the status conference in that case was not continued to today.)

(b) Lay-Invol 341(a) Meeting

The parties should be prepared to address appropriate remedies for Mr. Layfield's failure to appear at the meeting of creditors (11 U.S.C. 341(a)) scheduled for 1/22/19.

(c) Christine Layfield Delaware bankruptcy case

The parties should be prepared to address any effects of the chapter 7 bankruptcy case filed by Mr. Layfield's spouse, as reported by the L&B Chapter 11 Trustee (L&B dkt. 401, p.7). To what extent does the trustee of that bankruptcy estate assert interests in these related cases? Are there discussions regarding any stipulations for relief from the automatic stay, coordination regarding venue of any proceedings, and/or coordinating other matters as between the estates?

(2) Matters on Calendar Today

(a) Motion to Sell 2720 Homestead Rd, Unit 200, Park City Utah (L&B dkt. 391)

The parties should be prepared to address the issues raised by Wells Fargo (L&B dkt. 396) and Toll Creek Owners Association, Inc. (L&B dkt. 397), as well as Movant's reply (L&B dkt. 402). In addition, if the objections are resolved or overruled and the sale goes forward (subject to overbids), the tentative ruling is that any "good faith" finding (11 U.S.C. 363(m)) will require a declaration from any successful bidder that complies with the posted Procedures of Judge Bason:

§ 363(m): "Good Faith" Findings. Supporting declaration(s) should address: (1) connections: the bidder's prior, current, or expected connections with any relevant persons (other bidders, the debtor, major creditors or equity security holders in the case, or any of the debtor's officers, directors, agents, or employees, including whether any offers of employment or compensation have been made or will be offered to debtor's present or former officers, directors, agents, or employees), (2) consideration: whether any

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consideration is contemplated or has been transferred by the bidder in connection with the sale to any person other than the bankruptcy estate, and (3) absence of fraud or collusion between the bidder and any relevant persons (e.g., other bidders, the debtor's officers, directors, agents or employees), or any attempt to take unfair advantage of other bidders. See generally *In re M Capital Corp.*, 290 B.R. 743, 748-49 (9th Cir. BAP 2003). As used in this paragraph, a "bidder" includes all known prospective bidders.

(b) Wells Fargo Relief from Stay Motions (dkt. 143, 144)

The parties should be prepared to address the issues raised in Wells Fargo's status report (L&B dkt. 399) regarding all of the condominium units. The tentative ruling is to continue the Relief from Stay Motions to 3/5/19 at 2:00 p.m., with a deadline of 2/12/19 for the Trustee to provide Wells Fargo an updated written report describing the listing price(s), showings, and offers for Units 210 and 220. The tentative ruling is also to extend the previously entered orders for filing under seal (L&B dkt. 387, 388) to any brief the parties wish to file in connection with the continued hearing.

(c) Wellgen Standard v. Maximum Legal (17-1503) Status Conference

The parties should be prepared to address the status of the purported settlement of this adversary proceeding.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 3/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 12/18/18:
Appearances required

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Chapter 11

(1) General matters

(a) Combined status conferences in the interrelated bankruptcy cases

This hearing includes Status Conferences in each of the three related bankruptcy cases before this Court: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."), (c) *In re Maximum Legal (Cal.), LLP*, Case No. 2:17-bk-18433-NB ("Max-CA").

(2) Matters on Calendar Today

(a) Chapter 7 Trustee's Motion for Order (1) Approving Stipulation Relating to Disbursement of Funds, and (2) Closing Case (Max-CA, dkt. 137)

The tentative ruling is to grant this motion, but the parties should be prepared to address the effect on the pending adversary proceeding entitled *Wellgen Standard LLC v. Maximum Legal (California), LLP et al.* (L&B Case, No. 2:17-bk-19548-NB; Adv. No. 2:17-ap-01503-NB) (the "Wellgen Adv.P.").

On a related matter, as part of case management in the L&B case, the tentative ruling is to continue the Status Conference currently set in the Wellgen Adv.P. from 1/15/19 at 11:00 a.m. to the same date and time as the Status Conferences in the related bankruptcy cases, set forth below.

(b) Final Fee Application of SulmeyerKupetz (Max-CA, dkt. 131)

Grant: \$12,693.52 in fees and \$52.48 expenses.

(3) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17.

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conference: The tentative ruling is to continue the status conferences in the L&B and Lay-Invol cases to 2/5/19 at 2:00 p.m., to be concurrent with the related relief from stay hearings (regarding the Utah Condo matters), with a *brief* status report by the trustees due 1/29/19.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Rulings for 12/6/18 and prior:

[OMITTED FOR BREVITY, AND BECAUSE THEY HAVE BEEN LARGERLY MEMORIALIZED. See, e.g., L&B dkt. 367, 377]

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Chapter 11

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:19-01028 Affeld Grivakes LLP v. Pachulski

#15.00 Cont'd Status Conference re: Complaint for 1) Declaratory Relief; 2) Enforcement of Lien
fr. 04/02/19, 06/04/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 14 (7/30/19 at 11:00 a.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 4) and the other filed documents and records in this adversary proceeding.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l*

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Network, Ltd. v. Sharif, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 4/16/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 1/29/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 7/9/19, subject to adjustment at next status conference depending on Alvarez issues (see Status Report, adv. dkt. 4, section G).

Expert(s) - deadline for reports: 7/23/19 (subject to same adjustment)

Expert(s) - discovery cutoff (if different from above): 8/6/19 (subject to same adjustment)

Dispositive motions to be heard no later than: TBD

Joint Status Report: 5/21/19.

Continued status conference: 6/4/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

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(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Richard M Pachulski

Represented By
James KT Hunter

Plaintiff(s):

Affeld Grivakes LLP

Represented By
Damion Robinson

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:18-15829 Philip James Layfield

Chapter 7

#16.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 14 (7/30/19 at 11:00 a.m.).

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 10 (4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 6 (4/2/19 at 2:00 p.m.).

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/18/18:

Please see tentative ruling for the status conference in the *Layfield & Barrett*

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case, calendar no. 12 (12/18/18 at 2:00 p.m.).

Chapter 7

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the Layfield & Barrett matter (calendar no. 1, 9/18/18 at 2:00 p.m.).

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#17.00 [Notice of Dismissal of Deft., Wesley H. Avery, Tr.]

Cont'd Status Conference re: Complaint Against Dischargeability
1) Declaratory Relief and 2) Fraudulent Transfer / Concealment
fr. 5/21/19, 06/04/19

Docket 1

Tentative Ruling:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 14 (7/30/19 at 11:00 a.m.).

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen

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CONT...

Philip James Layfield

Ryan W Beall

Chapter 7

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1:00 PM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 4

Tentative Ruling:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

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Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#2.00 Status conference re: Chapter 11 case

Docket 42

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

(a) "First Day Motions" (dkt. 52, 53)

Debtors originally self-calendared their cash collateral motion (dkt. 52) and their budget motion (dkt. 53) for 8/21/19, which is not a day available for self-calendaring. In addition, Debtor's case was converted on 6/18/19 (dkt. 38), which is two months prior to the purported hearing - how could Debtor set these "first day" matters so far out? How can Debtors use cash, which might be subject to asserted liens, without an order approving use of cash collateral? See 11 U.S.C. 363(c). Have Debtors been engaging in transactions out of the "ordinary course" (11 U.S.C. 363(b)) - guarding against such unauthorized transactions is the reason why Judge Bason requires budget motions?

(b) Employment application, Law Offices of Lionel E. Giron (dkt. 50)

The United States Trustee has objected to the employment of the Law Offices of Lionel E. Giron (dkt. 61). The tentative ruling is to set the application for hearing at the same time as the continued status conference below.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 10/15/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/20/19 at 1:00 p.m. No written status report is required.

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CONT...

Angel Rodriguez Lara and Angelica Soto Calva

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, July 30, 2019

Hearing Room 1545

1:00 PM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 04/30/19, 06/04/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Continue this Status Conference to 10/15/19 at 1:00 p.m., pursuant to Debtor's request in her Status Report (dkt. 80). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Proof of Insurance for Motor Vehicles

Debtor should be prepared to address the status of her proof of insurance for two motor vehicles. See dkt. 52.

(b) Motion of Karl S. Reinecker, An Accountancy Corporation, for Relief from Stay (the "R/S Motion," dkt. 56)

The tentative ruling is to grant the R/S Motion in part, and deny it in part, as follows.

(i) Termination

Modify the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2) such that Movant may proceed with all foreclosure steps, except no foreclosure

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sale prior to 9/26/19. As a preliminary matter, this Court notes that proceedings on motions for relief from the automatic stay are summary in nature, and this Court is not required to conduct a "mini trial" on any disputed evidentiary issues. See, e.g., *In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011). On the record presented, this Court's analysis is as follows.

As for insurance, the tentative ruling is that Debtor is persuasive in asserting that the principal value is in the real property, as distinguished from the improvements, and that there is no showing that a \$1.5 million policy is insufficient for the latter. On the other hand, as for Debtor's assertion of a TILA violation or other lender liability/defenses, the tentative ruling is that this is insufficient for the reasons stated in Movant's reply (dkt. 66). That leaves what appears to be the key issues: valuation of the property, and the prospects for a quick sale (Debtor admits that she lacks the income for any other type of financial reorganization).

Both parties have weak evidence of value (as addressed further below). But on the record presented the tentative ruling is that Movant has presented sufficient evidence to show on a *prima facie* basis that its lien more likely than not is underwater and subject to erosion by an increasing senior lien debt (section 362(d)(1)), and therefore is not adequately protected, and alternatively that Debtor lacks an equity in the property and the property is not necessary for an effective reorganization, meaning a financial reorganization (*i.e.*, in this case, a sale of the property) that has a "reasonable" possibility of being successfully accomplished "within a reasonable time." *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assoc's, Ltd.*, 484 U.S. 365, 375-76 (1988). These issues are addressed further below.

(ii) Section 362(d)(1) and valuation

Movant has presented evidence that the property value is approximately \$2,750,000. True, Debtor points out a weakness in Movant's evidence of value: if Movant's evidence is to be believed then the present value leaves its lien far underwater, but there is no evidence of a drastic decline in real estate values or drastic increase in the senior debt after the loan was made in 2016, which suggests that either Movant made a loan in 2016 on very inadequate collateral or else that Movant's current valuation is substantially too low. In addition, this Court notes that Movant's appraisal is an "exterior only" appraisal. See dkt. 56, Ex.4.

But even if Movant's evidence is flawed, the tentative ruling is that it is enough to meet Movant's burden of producing some evidence of "cause" for

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relief from the automatic stay because it is more likely than not that Movant's lien is being eroded by accruing interest and other charges on unpaid senior liens. The undisputed evidence is that the asserted liens against the property amount to over \$3.9 million so, even if Movant's evidence of value is wildly inaccurate, Movant has presented enough evidence to meet its initial burden to show that lacks a sufficient equity cushion (normally a 10% to 20% equity cushion is required for that cushion to constitute adequate protection).

Debtor has attempted to rebut Movant's evidence by presenting her own evidence of a \$4.8 million value. But, as Movant points out, Debtor's appraisal (dkt. 65) is as of April 20, 2018, 11 months prior to the bankruptcy petition and over a year before the present date, and it relies on comparable sales from 2017 and 2014. In addition, this Court notes that the adjustments to "comps" (allegedly comparable properties) are generally so large that they call into question the accuracy of Debtor's appraisal. See dkt. 65, Ex.4.B., at PDF pp.8-10.

In other words, the tentative ruling is that Debtor's evidence does not provide sufficient assurance of an equity cushion to overcome Movant's *prima facie* evidence of cause for relief from stay due to erosion of its interest because of non-payment of the senior lien. Nevertheless, given the weaknesses in Movant's evidence, and given that the apparent erosion of Movant's interest is somewhat gradual relative to the size of the debt at issue, the tentative ruling is that an appropriate form of relief from the automatic stay is to provide Debtor with the period of time set forth at the start of this tentative ruling before any foreclosure can take place. To be clear: Movant will be able to take all steps in preparation for foreclosure prior to that time, but could not actually conduct a foreclosure sale until that date.

(iii) Section 362(d)(2)

The tentative ruling is that Movant has established that Debtor lacks an equity in the property for the same reasons set forth above. As to whether the property is necessary to "effective" reorganization, the evidence is that the property has been on the market for over a year and has not sold. Although Debtor has substantially reduced the asking price, she has not provided evidence of an impending sale or any interested buyers. The tentative ruling is that if a sale is not accomplished within the period set forth at the start of this tentative ruling that would not be "within a reasonable time" as required by *Timbers*.

Note: The tentative ruling is to overrule Movant's evidentiary objection

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(dkt. 67) because it goes to the weight of the evidence and not the admissibility. Also, to the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(ii) Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because Movant has not provided sufficient evidence of bad faith or a scheme to delay, hinder, or defraud creditors comparable to what Congress has set forth in section 362(d)(4) that would justify awarding the requested *in rem* relief.

(iii) Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

(iv) Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 3/13/19 .

(a) Bar date: 6/30/19 (dkt. 45) (served 5/2/19).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/30/19 at 1:00 p.m. Status Report due on 7/23/19.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 4/30/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

(a) Budget motion

Debtor's status report (dkt. 31, item B.2.) states that a budget motion is not required by the presiding judge. To the contrary, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state:

§ 363(b): Budget motions. Required. ... **NOTE:** Judge Bason *requires* the use of local forms F 2081-2.2.MOTION.BUDGET and F 2081-2.2.ORDER.BUDGET.

Nevertheless, the tentative ruling is to excuse the lack of a budget motion due to the circumstances of this case (Debtor proposes a 363 sale of her sole property that allegedly has substantial equity; she has almost no income; and she has almost no unsecured creditors).

(b) Transfers to insiders

Debtor's first Monthly Operating Report ("MOR," dkt. 30, p.8, question 2) states that transfers have been made to insiders without appropriate authorization. What are the details?

(c) 363 sale

Debtor's counsel is referred to the posted Procedures of Judge Bason regarding sales under 11 U.S.C. 363(b)&(f).

(2) Deadlines/dates. This case was filed on 3/13/19 .

(a) Bar date: 6/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/4/19 at 1:00 p.m. No written status

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19

Docket 5

Tentative Ruling:

Tentative Ruling for 7/30/19:

Appearances required.

(1) Current issues

The parties should be prepared to address (a) Debtor's proposed amendment to the second amended plan, in the form of a third amended plan (dkt.107), (b) Debtor's status report (dkt.108), which argues that re-ballotting is not required, and (c) the Tenants' objection (dkt. 110), and the effect of the facts that (i) they did not file proofs of claim (except for one claim relating to alleged damages incurred during a prior period of tenancy) and (ii) they did not file any written objections to the second amended plan.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: see above.

(c) Continued status conference: 8/20/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 7/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Non-appearance by counsel for Debtor at last hearing
At the hearing on 6/11/19 counsel for Debtor did not appear. Why not? Is Debtor continuing to prosecute this case?

(b) Plan and Disclosure Statement (dkt. 68,69)
Same issues as for 6/11/19, item "(1)(b)."

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: see above.

(c) Continued status conference: 8/6/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/11/19:

(1) Current issues

(a) Motion to Allow Late-filed Proof of Claim as a Timely Filed Proof of Claim (dkt. 98)

Grant, subject to Debtor's reservation of rights to object to the substance of the claim. See Ltd. Opp. (dkt. 101) and Reply (dkt. 102).

Appearances are not required regarding this motion.

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Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Plan and Disclosure Statement (dkt. 68,69)

The parties are directed to address (i) whether Debtor projects that \$90,000 or \$240,000 will be available fourteen months after the Effective Date of the Plan - based on Ex.C to the Disclosure Statement (dkt. 68), the tentative ruling is that it is the former; and (ii) Debtor's evidence of feasibility asserting that if necessary Debtor will "seek" additional equity contributions (dkt. 95, p.3:2-6) and the evidence provided by the objecting tenants in Class 6 of the Plan that Debtor will need between approximately \$600,000 and \$650,000 to pay the insurance replacement cost of the mobile homes (plus, for those tenants who elect to remove their mobile homes, another \$2,000, under the terms of the Plan). See Disclosure Statement (dkt. 68) Ex.I, incorporated into Plan, dkt.69 (Ex.A class 6, Ex.H Note 2); Order conditionally approving Plan subject to feasibility evidence (dkt. 93); Starflinger Decl. re feasibility (dkt. 95); and Tenants' Obj. (dkt. 97).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: see above.

(c) Continued status conference: 7/30/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges,"

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"Bason, N.", "Instructions/Procedures").

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(1) Current issues

(a) Plan and disclosure statement (68, 69)

Debtor should be prepared to address whether it has come to a consensual resolution with some or all tenants regarding their move out date and related matters. To the extent any disputes remain, the parties are directed to address (i) whether this Court should recognize them, given the absence of written objections to confirmation, and (ii) the merits of those objections.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 68, 69)*: See above.

(c) Post-confirmation status conference if the Plan is confirmed:
7/9/19 at 1:00 p.m. Status report due 6/25/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required.

(1) Current issues

(a) UST motion to dismiss (dkt. 79)

Have the issues in this motion been resolved (see dkt. 82)?

(b) Third amended plan (dkt. 69) and disclosure statement (dkt. 68)

The tentative ruling is to approve the Disclosure Statement on a final basis, and confirm the Plan for the following reasons.

Service of the voting package and notice (dkt. 75, 77) appears to have

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complied with this Court's orders setting this hearing (dkt. 71, 72). The ballot summary (dkt. 81) shows timely acceptance by Classes 2A, 2B, and 2C, untimely acceptance by Class 2D (the last of the secured claim classes), a lack of any votes by Class 4 (nonpriority unsecured creditors, who are to receive a 30% distribution under the Plan), and votes against the plan by Class 6 (mobile home park tenants, who may receive up to the value of their mobile home, if they hold a valid tenancy, or \$2,000 for removing the mobile home). Because not every impaired class has accepted the Plan (paragraph "(8)" of 11 U.S.C. 1129(a)), Debtor must satisfy the requirements for "cramdown" under subsection "(b)" of 11 U.S.C. 1129, as well as the other requirements of subsection "(a)."

The tentative ruling is that Debtor has done so. Cramdown requires, among other things, that a plan be "fair and equitable" and not "discriminate unfairly" as to non-accepting impaired classes. 11 U.S.C. 1129(b).

None of the non-accepting classes have filed any objections to confirmation of the Plan or final approval of the adequacy of the Disclosure Statement. The treatment of Class 2D is justified by its belated acceptance of the Plan. The treatment of Class 4 appears to be justified by the legal requirement to pay secured creditors ahead of unsecured creditors, the "new value" contribution of Debtor's principal, and Debtor's cash flow projections. The treatment of Class 6 appears to be justified by Debtor's disclosure of its legal theory for displacing the mobile home park tenants, and the absence of any contrary arguments or authority. See Disclosure Statement, Exhibit "I" (dkt. 68 at PDF pp.22-24).

The final requirement is the other elements of 11 U.S.C. 1129(a). Those appear to have been satisfied, both by Debtor's use of this Court's form of plan and disclosure statement and by the data included when Debtor completed those forms.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B). In addition, the proposed order must include the language required by Local Rule 3020-1(b), including a post-confirmation status conference as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

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(b) Plan/Disclosure Statement (dkt. 68, 69)*: See above.

(c) Post-confirmation status conference: 7/9/19 at 1:00 p.m. Status report due 6/25/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required.

(1) Current issues.

(a) Plan (dkt. 64, the "Plan") and disclosure statement (dkt. 63, the "D/S")

It appears that counsel for Debtor has manually altered the spreadsheets, which defeats the purpose of having automatic (reliable) calculations in the spreadsheets. In addition, it appears that the Plan periods in Ex.A are "1" month and 13 months later (month "14"), whereas on Ex.C Period A is 3 months, Period B is 1 month, and Period C is 6 months, which does not match. In addition, the Effective Date (e.g., on Ex.A & Ex. C) should be revised to a date that is at least two weeks after the combined hearing on the plan and D/S set forth below.

Subject to correction of these issues, the tentative ruling is to conditionally approve the disclosure statement and authorize service of the voting package, all as set forth below.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 64,63)*: 12/18/18 deadline (i) to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and (ii) to

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lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference. The proposed order should be modified so that the voting package includes Mr. Starflinger's declaration (dkt. 65).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 3/12/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required.

(1) Current issues. This Court has reviewed Mr. Starflinger's declaration (dkt. 62) and will address at the Status Conference Debtor's first amended plan (dkt. 61) and first amended disclosure statement (dkt. 60).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and

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dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 12/4/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/9/18:

Appearances required.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 57) will address at the Status Conference Debtor's proposed Plan (dkt. 55) and disclosure statement (dkt. 54).

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement*: This Court anticipates authorizing service of a voting package and setting related deadlines and dates, including a combined hearing on final approval of the disclosure statement and confirmation of the plan.

(c) Continued status conference: 11/27/18 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 8/7/18:

Continue to 10/9/18 at 1:00 p.m., per the debtor's request (Status Report, dkt. 51). Appearances are not required on 8/7/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/26/18:

Continue to 8/7/18 at 1:00 p.m. Appearances are not required on 6/26/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

- (1) Current issues. This court has no issues to raise *sua sponte*.
- (2) Deadlines/dates. This case was filed on 5/15/18.

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CONT...

R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

(a) Bar date: 8/14/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/21/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/26/18 at 1:00 p.m., to be concurrent with other hearings in this case. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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2:17-10002 Rescue One Ambulance

Chapter 11

#5.00 Hrg re: U.S. Trustee's motion to dismiss or convert case

Docket 180

Tentative Ruling:

Please see tentative ruling in status conference (calendar no. 6, 7/30/19 at 1:00 p.m.).

Party Information

Debtor(s):

Rescue One Ambulance

Represented By
Michael Jay Berger

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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#6.00 Cont'd Status Conference re: Post Confirmation
fr. 1/17/17, 1/31/17, 2/21/17, 4/11/17, 05/09/17,
6/20/17, 8/22/17, 10/17/17, 12/12/17, 2/27/18,
5/29/18, 9/18/18, 12/18/18, 1/29/19, 2/26/19;
04/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Grant the UST's Motion to Dismiss or Convert (dkt. 180), provided that for the reasons stated by the IRS (dkt. 184) and Debtor (dkt. 185) the tentative ruling is to dismiss this case rather than convert it. Appearances are not required.

Proposed order: The United States Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Debtor is directed to provide an oral status report regarding the status of the IRS payment and the final decree.

The tentative ruling is to continue this status conference to 6/18/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Debtor is directed to provide an oral status report. This status conference has been continued several times in anticipation of the final resolution of all pending matters and issuance of a final decree, but that has yet to happen. Why not?

The tentative ruling is to continue this status conference to 4/9/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then. Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Continue to 1/29/19 at 1:00 p.m., with no written status report required, and with the expectation that it might go off calendar if a final decree has been issued by then. Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This status conference was continued from 8/18/18 to 9/18/18 (dkt.142). Based on recent docket activity, this Court is aware of the following issues.

(a) Dispute with State Compensation Insurance Fund (dkt. 145-156, 158, 159). Has this matter been resolved? Perhaps so, because the Status Report (dkt. 170) does not mention it. If not, what is the status of the parties' disputes?

(b) Final decree (dkt. 141, 151). The Status Report (dkt. 170) projects filing another motion by 12/31/18, so the tentative ruling is to continue this post-confirmation Status Conference to 12/18/18 at 1:00 p.m., with no written status report required and with the expectation that it might go off calendar if a motion for a final decree has been filed by then.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/29/18:

Continue to 8/18/18 at 1:00 p.m., *brief* status report due 8/4/18, based on the debtor's status report (dkt. 140), with those dates all subject to being mooted if a final decree is issued before that time. Appearances are not required on 5/29/18.

- (1) Current issues. This court has no issues to raise *sue sponte*.
- (2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 5/29/18 at 1:00 p.m., *brief* status report due 5/15/18, all subject to being mooted if a final decree is issued before that time. Appearances are not required on 2/27/18.

- (1) Current issues. This court has no issues to raise *sue sponte*.
- (2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/12/17:

Continue to 2/27/18 at 1:00 p.m., *brief* status report due 2/13/18, all subject to being mooted if a final decree is issued before that time. Appearances are not required on 12/12/17.

(1) Current issues. This court has no issues to raise *sue sponte*.

(2) Deadlines/dates. This case was filed on 1/1/17, and the debtor's plan was confirmed on 10/24/17 (dkt. 128).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rescue One Ambulance

Represented By
Michael Jay Berger

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2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01135 Koi Design LLC v. Strategic Partners, Inc.

#7.00 Status Conference re: Complaint for Avoidance
of Judicial Liens and Declaratory Relief
fr. 7/16/19

Docket 1

Tentative Ruling:

Please see the tentative ruling in the status conference in the main case
(calendar no. 8, 7/30/19 at 1:00 p.m.).

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

Strategic Partners, Inc.

Represented By
Howard Camhi

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin

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#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19, 5/14/19, 6/11/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Appearances required.

(1) Current Issues

(a) Koi Design v. SPI (Adv. No. 2:19-ap-01135-NB), Status Conference

This Court has reviewed the parties' joint status report (adv. dkt. 12) and the other filed documents and records in this adversary proceeding. The tentative ruling is to continue this status conference to the date below to be held at the same time as the continued status conference in the main case.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(i) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014)

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(authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(ii) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 8/13/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(iii) Deadlines: This adversary proceeding has been pending since 5/7/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/29/19.

Expert(s) - deadline for reports: 11/5/19

Expert(s) - discovery cutoff (if different from above): 11/19/19

Dispositive motions to be heard no later than: 12/10/19

Joint Status Report: 9/17/19

Continued status conference: 9/24/19 at 1:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD at 9:00 a.m.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (*served 2/22/19*).

(b) Plan/Disclosure Statement*: [TBD] At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and

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procedures at a later time).

(c) Continued status conference: 9/24/19 at 1:00 p.m., brief status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/11/19

Appearances are not required.

(1) Current Issues

(a) Motion to Extend Exclusivity Period (dkt. 180)

The tentative ruling is to grant the Motion and extend the exclusivity deadline to file a chapter 11 plan to 8/23/19 and the deadline to obtain acceptance of that plan to 10/22/19.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date, subject to any modifications on the record at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (*served 2/22/19*).

(b) Plan/Disclosure Statement*: [TBD] At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 7/30/19 at 1:00 p.m. (to be concurrent with the status conference in Debtor's adversary proceeding against Strategic, Adv. No. 2:19-ap-01135-NB), no written status report required.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/14/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's Objection and Motion to Strike ("Motion to Strike," dkt. 175) Request for Judicial Notice by Strategic Partners, Inc. ("Strategic," dkt. 161)

Deny. This Court can take judicial notice of the Magistrate Judge's report and recommendation for the limited purpose of showing that there is a substantial risk that Debtor will have a substantial debt to Strategic. That issue is relevant to the purposes, risks, and benefits of Debtor's proposed financing.

(b) Motion for Authority to Obtain Credit (dkt. 129, the "DIP Financing Motion")

Grant the DIP Financing Motion on a final basis on the same terms as set forth in the interim order (dkt. 159), and overrule Strategic's supplemental objection (dkt. 168), for the reasons set forth in Debtor's supplemental reply (dkt. 174) at pp. 3:6-5:13 & nn. 4 & 5, and based on this Court's review of Debtor's projected budget (dkt. 151, Ex.A) and Debtor's postpetition financial performance (e.g., dkt. 146). The tentative ruling is that the proposed financing has been shown to be appropriate under the statutory standards (11 U.S.C. 364(d)) and that Debtor has met its burden to show adequate protection of Strategic's interests in property of the bankruptcy estate (*id.*).

Proposed orders: Debtor is directed to lodge proposed orders on the foregoing motions via LOU within 7 days after the hearing date, and attach a copy of this latest tentative ruling, thereby incorporating it as this Court's final

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ruling, subject to any modifications on the record at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (*served 2/22/19*).

(b) Plan/Disclosure Statement*: [TBD] At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 7/16/19 at 1:00 p.m. (to be concurrent with the status conference in Debtor's adversary proceeding against Strategic, Adv. No. 2:19-ap-01135-NB), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/22/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Cash Collateral Motion (dkt. 4)

Grant on a final basis.

(b) Motion for Authority to Obtain Credit (dkt. 129, the "DIP Motion")

Grant the DIP Motion on an interim basis and continued for a final hearing at the same time as the continued status conference, based on the assertions that Wells Fargo has an oversecured, unavoidable, perfected lien. If those assertions turn out to be untrue, the DIP financing will be rejected.

Proposed orders: Debtor is directed to lodge proposed orders on the

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foregoing motions svia LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (*served 2/22/19*).

(b) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/4/19 at 1:00 p.m., status report due 5/28/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 3/5/19

Appearances required by counsel for the debtor.

(1) Current issues

(a) Emergency Payroll Motion (dkt. 3)

Grant on a final basis, on the same terms as in the interim order (dkt. 28).

(b) Cash Collateral Motion (dkt. 4)

Subject to addressing the issues raised in the reservations of rights filed by creditors Wells Fargo Trade Capital Services, Inc. ("Wells Fargo," dkt. 75) and Strategic Partners, Inc. ("Strategic," dkt. 76), grant this motion on a

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final basis, on the same terms as in the interim order (dkt. 29).

(c) Cash Management Motion (dkt. 6)

Subject to an update from Debtor and, if they elect to appear, counsel for the United States Trustee, regarding the adequacy of Debtor's cash management procedures, the tentative ruling is to grant this motion on a final basis, on the same terms as in the interim order (dkt. 27).

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65). Note: This Court's order setting the bar date (dkt. 65) directed Debtor to serve that order on all parties in interest no later than 2/22/19. Debtor's proof of service (dkt. 82) is deficient.

First, the declarant alleges (dkt. 82, pp.1:25-2:3) that someone else (an unnamed person) served the order. That is inadequate: a declaration of service must be based on personal knowledge.

Second, it appears that the person who served the order was someone employed by Debtor. Traditionally, service must be verified by someone who is "not a party" (see Rule 7004(a)(1), Fed. R. Bankr. P.), and Debtor has not cited any authority that the rule is different in bankruptcy cases.

The tentative ruling is to set a deadline of 3/4/19 for Debtor's counsel to re-serve the bar date order and file a proof of service that complies with the applicable rules. (This Court recognizes that this second notice of the bar date will not be received until closer to that bar date, but in the circumstances that appears to be appropriate.)

(b) Order setting principal status conference. The same deficiencies apply to the purported proof of service (dkt. 53) of this Court's order (dkt. 38) setting this principal status conference.

The tentative ruling is to set a deadline of 3/4/19 for Debtor's counsel to re-serve the principal status conference order and file a proof of service that complies with the applicable rules. (This Court recognizes that this second service of the principal status conference order will occur after the principal status conference;

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but in the circumstances that appears to be appropriate because that order provides official notice of important matters, such as notice that this Court can issue case-dispositive orders at any status conference.)

- (c) Proofs of service generally. In addition to the foregoing, Debtor's counsel are encouraged to redouble their efforts to provide accurate proofs of service. See, e.g., dkt. 82, last page (purported proof of service that appears to refer erroneously to status report rather than the declaration to which it is attached).
- (d) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
- (e) Continued status conference: 5/7/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/19

Appearances required by counsel for the debtor.

(1) Current issues

(a) Debtor's motion for relief from automatic stay (dkt.)

The tentative ruling is to grant this motion, on the terms and conditions set forth in calendar no. 1 (2/13/19 at 2:00 p.m.).

(b) Cash flow

Debtor is directed to provide an update on its current cash flow andd anticipated DIP financing.

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CONT... Koi Design LLC

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- (2) Deadlines/dates. This case was filed on 1/25/19.
- (a) Bar date: TBD (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: [TBD] [At a future status conference this Court anticipates setting a deadline will be set for filing, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 3/5/19 at 1:00 p.m., status report due 2/19/19 (see dkt. 38).
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/19

Appearances required. There is no tentative ruling, except that Debtor is directed to provide a brief overview of Debtor's current situation and possible exit strategies, and this Court intends to continue the status conference to 2/26/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#1.00 Hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) for Entry of an Order: (1) Authorizing the Sale of Real Property Free and Clear of Liens and Interests; (2) Approving Overbidding Procedure; (3) Authorizing Payment of Real Estate Brokers Commission and Ordinary Costs of Sale; and (4) Finding Purchaser is a Good Faith Purchaser

Docket 294

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 1.1, 7/30/19 at 2:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

Movant(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Craig G Margulies
Craig G Margulies
Monserrat Morales
Monserrat Morales
Monserrat Morales

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#1.10 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Appearances required.

(1) Current Issues

(a) Debtor's Motion to Sell Gale Property Free and Clear (dkt. 294)

Grant the motion, subject to (i) the requirements in Cathay Bank's response (dkt. 304) (proceeds are subject to its lien under cash collateral order, to be held in segregated DIP account pending further order of this Court); (ii) any opposition and any overbids at the hearing (see OST, dkt. 297), and (iii) if there are overbidders, subject to the filing of a "good faith" declaration (11 U.S.C. 363(m)) by the winning bidder that substantially complies with Judge Bason's posted procedures (available at cacb.uscourts.gov). See *id.* The tentative ruling is that the good faith declaration of one of the proposed purchasers (dkt. 305) is sufficient if they are the winning bidder.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 8/20/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/18/19:

Continue this status conference as set forth below. Appearances are not required on 6/18/19.

(1) Current issues

(a) Debtor's motion to extend exclusivity period and extend period to assume/reject leases (the "Extension Motion," dkt. 239)

Grant - *i.e.*, (i) extend Debtor's exclusive right to file a plan of reorganization and gain acceptance of a plan of reorganization to and including 9/1/19 and 12/1/19, respectively, and (ii) extend the period in which Debtor may assume or reject unexpired leases of non-residential real property to and including 9/1/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/30/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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Tentative Ruling for 6/4/19:
Appearances required.

(1) Current issues

(a) Application to employ real estate broker (dkt. 164)

Subject to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property (see Cathay Bank Obj., dkt. 243, at pp.6:25-7:6), the tentative ruling is to grant the application to employ real estate broker. The tentative ruling is to overrule Cathay Bank's other objections.

(i) Alleged lack of disinterestedness

Although Cathay Bank's supplemental opposition (dkt. 243) argues that the proposed broker, Standard Mortgage, Inc. dba Standard Realty ("Broker") is not "disinterested," and therefore is not eligible for employment under 11 U.S.C. 327(a), the tentative ruling is that this objection is not persuasive. True, an independent contractor with Broker, Mr. Akbari (who previously stated that he was an "employee" of Broker), is married to the sister of the wife of one of Debtor's officers/control persons. Cathay Bank cites authority that, under California law, being a brother-in-law is equivalent to being a brother, so the tentative ruling is that Mr. Akbari is a "relative" of an "officer" or "person in control" of Debtor and therefore he is an "insider." See 11 U.S.C. 101(45) (a "relative" means an "individual related by affinity or consanguinity within the third degree as determined by the common law"); 101(31)(B)(vi) (insider includes a "relative of a ... officer, or person in control of the debtor"). But that does not mean that Broker is an insider.

It also appears to be true that Debtor has not been as forthcoming with the connections between Broker and Debtor as would have been advisable, including both the familial relationships noted above and the recent discovery that Mr. Akbari "was the listing agent on the Cabrillo Street Property (during the *nunc pro tunc* timeframe in which the Broker is sought to be employed)" Cathay Bank Obj. dkt. 243, p.3:4-6 & Warrington Decl., Ex.1. Finally, as noted in the tentative ruling for 5/21/19, part (1)(b) (reproduced below), the statutory list of insiders "includes" but is not limited to the listed examples (see 11 U.S.C. 102(3)) and in addition this Court notes that a professional must be not only "disinterested" but also must not "hold or

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represent an interest adverse to the estate." 11 U.S.C. 327(a).

But the tentative ruling is that the facts recited above do not disqualify Broker from employment. A different real estate agent will be handling this matter (Mr. Ahmadi, dkt. 234); there is no evidence that Mr. Ahmadi or Broker itself has any incentive to act in any way adverse to the bankruptcy estate; and the failures to provide disclosure of every arguable "connection" between Broker and Debtor (within the meaning of Rule 2014, Fed. R. Bankr. P.) is unfortunate but understandable given the attenuated nature of the connections (Debtor's officer's wife's sister's husband originally was the listing agent for Broker on one of the four properties to be sold).

(ii) Alleged issues with 4.5% commission

Cathay Bank argues that Debtor has failed to justify a 4.5% commission; but to the contrary, the tentative ruling is that in general this Court should give deference to Debtor's business judgment, and that even without such deference Debtor has provided sufficient evidence that a 4.5% commission is appropriate (see dkt. 234) (Declaration regarding typical commission for commercial properties being 4-6%, and for residential properties 5-6%). Cathay Bank has provided no evidence to the contrary. Nor has Cathay Bank cited authority that Debtors are required to "shop around" for the lowest commission (which might not be the best broker) prior to selecting a broker, especially given that the proposed Broker has agreed to a slightly reduced commission from what is typical (see *id.* at 3).

(iii) Alleged lack of qualifications re industrial property

The tentative ruling is that although there may be conceptual differences between "industrial" and "commercial" properties, Cathay Bank has not established that any such difference is meaningful in the context of this case and the properties at issue.

(iv) Conclusion as to Broker

The tentative ruling is to grant the application and authorize Broker's employment subject, again, to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property. See Cathay Bank Obj., dkt. 243, at pp.6:25-7:6.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

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- (2) Deadlines/dates. This case was filed on 2/20/19.
- (a) Bar date: 6/17/19 (timely served, dkt. 129).
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 6/18/19 at 2:00 p.m., no status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Debtor's counsel's fee application (dkt. 175, 177)
Allow \$145,683.50 in fees and \$5,714.10 in expenses for a total of \$151,397.50, and authorize draw down of the retainer (\$124,846.70 remaining), with the balance of the fees and expenses to paid from the estate.

Cathay Bank's response (dkt. 207) does not object to allowance of the fees but seeks to reserve all rights it might have regarding a purported lien on some of the retainer. Debtor's reply (dkt. 215) asserts that the bank has no such rights to reserve because it has been given a replacement lien on the real estate.

This Court's recollection is that the bank did not entirely waive such rights at the hearing on 5/7/19, but did indicate that it was no more going to seek disgorgement from Debtor's firm (of authorized postpetition distributions from the retainer account) than it would seek disgorgement from one of Debtor's utilities (of authorized postpetition utility payments). In any event, whatever the parties' interpretations of the representations on 5/7/19, the

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issue is too remote for either party to be expending any substantial attorney fees on it at this time.

Cathay Bank has its security interest in the accounts receivable that existed as of the petition date, and it has replacement liens in ongoing accounts receivable. Debtor believes the bank will be paid in full out of those things. But as adequate protection (11 U.S.C. 361, 363(e) & 552(b)) the bank has replacement liens in Debtor's real estate - to cover both (i) any diminution in the value of its security interest in the accounts receivable as of the petition date and (ii) any diminution in the value of its purported security interest in the retainer as of the petition date. Therefore the bank's and Debtor's rights are both reserved, and neither party should be spending much time on this issue. Any attorney fees spent arguing about this issue are subject to this Court's review for reasonableness (under 11 U.S.C. 330 and 331 for Debtor's counsel, and under 11 U.S.C. 506(b) for Cathay Bank's counsel).

(b) Application to employ real estate broker (dkt. 164)

The tentative ruling is, with one exception, to overrule the objection of Cathay Bank (dkt. 199), based on Debtor's reply (dkt. 214). The exception is that, although Debtor has presented evidence of the reasonableness of the broker's proposed commission and experience, and this Court generally should defer to Debtor's business judgment, Cathay Bank makes a good point that the real estate at issue ranges broadly from a single family residence to commercial property etc., and there is insufficient evidence of the proposed broker's specific experience as to each type of real estate. The tentative ruling is to set a **deadline of 5/24/19** for Debtor to file and serve a supplemental declaration detailing such experience, with a **deadline of 5/29/19** for any supplemental objection by Cathay Bank, and a continued hearing (if there is any such objection) concurrent with the continued status conference (see below).

As for disinterestedness (11 U.S.C. 101(14), 327(a)), Cathay Bank argues that the broker is not disinterested because, from the information on the docket, it appears that one of its alleged employees (Mr. Akbari) is a relative by marriage of one of Debtor's principals, and the principals are beneficiaries of a trust that engaged in prepetition transactions with Debtor that, according to the bank, violated Debtor's covenants with the bank. On the one hand, it is true that Mr. Akbari previously declared that he was "employed" by the broker (dkt. 77, p.1:22).

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On the other hand, this Court interprets that as an (unfortunately) imprecise description of his arrangement as an independent contractor. Alternatively, even if he is an employee, this Court is not persuaded that this disqualifies the broker from employment by the estate.

Mr. Akbari apparently is married to the sister of the wife of one of Debtor's officers/control persons. The tentative ruling is that this makes him related "by affinity or consanguinity" within the fourth degree (1.officer - 2.spouse - 3.sister of spouse - 4.Mr. Akbari), so he is not a "relative" within the meaning of 11 U.S.C. 101(45) and therefore he is not an "insider" within the meaning of 11 U.S.C. 101(31)(B)(vi) or (E). That is not dispositive, because, the statutory list of insiders "includes" but is not limited to the listed examples. See 11 U.S.C. 102(3). But the tentative ruling is that the connection has been sufficiently disclosed (Rule 2014, Fed. R. Bankr. P.) and is not disqualifying.

In practical terms, this Court does not perceive that any alleged ties between the proposed real estate broker and Debtor's principal creates any incentive to lessen the price obtained for the real estate, or otherwise prejudice the interests of the bankruptcy estate. Accordingly, the tentative ruling is to approve the employment, subject to satisfactory supplemental evidence as set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: The tentative ruling is to vacate any deadline to file a proposed plan and disclosure statement, given the current posture of this case.

(c) Continued status conference: 6/4/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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Revised Tentative Ruling for 5/7/19:
Appearances required.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week without further authorization of this Court. (To be clear: if Debtor in its business judgment believes that it must incur more than that amount of professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

(c) Cathay Bank's adequate protection: replacement liens v. cash payments

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The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)

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state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate declaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are

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directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to

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establish on a *prima facie* basis a reasonably probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

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Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.*, were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

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Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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#2.00 Status Conference re: Post Confirmation
fr. 12/5/17, 02/13/18, 03/06/18, 5/1/18, 5/22/18,
5/29/18, 08/07/18, 9/21/18, 10/9/18, 12/4/18,
3/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 7/30/19:

Continue to 12/10/19 at 1:00 p.m. with the understanding that the hearing will go off calendar if a final decree has been issued before that time. See dkt. 387, 389. Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue to 7/30/19 at 2:00 p.m. with a brief status report due 7/23/19. See status report (dkt. 378). Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/4/18:

Appearances required. This Court has reviewed the Combined Chapter 11

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Plan and Disclosure Statement (Dkt. 312) (the "Plan" and "Disclosure Statement"), the Driver Creditors' Objection to Payment of Administrative Claim to Robert Wallace (Dkt. 335) (the "Objection"), the Clarification of Chapter 11 Plan (Dkt. 342), the Ballot Summary (Dkt 352), the Brief in Support of Confirmation (Dkt. 353), and Debtor's Opposition to the Objection (Dkt. 354).

(1) Current issues

(a) Objection (Robert Wallace's Administrative Claim) (dkt. 335, 354)

The Driver Creditors object to the Plan's proposal to pay Mr. Wallace, the sole officer of the Debtor, an administrative claim in the total of \$97,766.90. Dkt. 335. The Driver Creditors object that \$10,000 per month compensation is not justified for a liquidating and non-operating business. The tentative ruling is to overrule that objection because (i) the Driver Creditors did not object (until now, approximately one year later) to Debtor's Notice of Insider Compensation (the "Notice") detailing Mr. Wallace's compensation on November 17, 2017 (dkt. 354) (see LBR 2014-1(a)(3)) and (ii) Debtor's Opposition and Mr. Wallace's declaration (dkt. 354) adequately support the compensation.

(a) Plan and Disclosure Statement

Approve the disclosures in the Disclosure Statement on a final basis (11 U.S.C. 1125), and confirm the Plan (11 U.S.C. 1129(a)&(b)), for the reasons set forth in Debtor's Brief in Support of Confirmation. The plan proponents are directed to lodge a proposed order within seven days after this hearing, which should include a paragraph setting a post-confirmation status conference (on the date set forth below) and include language substantially in the form required by LBR 3020-1(b).

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: see above.

(c) Post-confirmation status conference: 2/26/19 at 1:00 p.m., with a status report (see LBR 3020-1(b)) due 2/12/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the Amended and Revised Settlement Agreement and Mutual and General Release Agreement (see dkt. 298).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/21/18:

Appearances required. This Court has reviewed the transcript that orally memorializes the principal parties' settlement. See Tr. 9/7/18 (dkt. 295), pp. 3:16-15:18 & 30:1-4 (the "Main Settlement"). The parties should be prepared to address the following issues.

(1) Settlement documentation. What documents are being prepared to implement the Main Settlement (e.g., the form of notice to the Truck Drivers, including their election whether to return the trucks and their agreement to mutual releases)? What is the status of that preparation? Will the notice to the Truck Drivers need to be in any languages other than English and Spanish? What steps can be taken before the documentation is finalized, and conversely what steps should wait until the documents are finalized?

(2) Secured/unsecured Truck Drivers. How do the parties propose to address what portion of the distributions from the bankruptcy estate should be allocated to the secured claims of certain Truck Drivers, and what remainder should be allocated to unsecured claims? Is that issue deferred until a proposed chapter 11 plan? If so, how will the possible effects of various

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secured claim amounts be adequately explained to the Truck Drivers who will be asked to consent to the Main Settlement? Conversely, if the parties have a proposed settlement as to the allowed dollar amount of these secured claims, what are the proposed terms of that additional settlement (the "Secured Driver Claims Settlement")?

(3) Procedures. What procedures should apply to the Main Settlement and any Secured Driver Claims Settlement (or litigation)? For example, is another Rule 9019 motion advisable (or necessary)? Should this Court find and conclude, under Rule 2002(a)(3), Fed. R. Bankr. P., that some sort of supplemental notice and opportunity to object (and overbid?) is sufficient, given that notice has already been provided of the basic issues and standards governing settlement? See dkt. 36 (settlement motion) *and* dkt. 122 (priorities/secured claims motion).

Whatever further procedures are required, should different sets of documents be provided to (a) the Truck Drivers (holding both secured and unsecured claims) and (b) other creditors (holding both secured and unsecured claims)? Should all creditors, including the Truck Drivers, receive a complete set of settlement documentation, or is that an undue expense? Is it sufficient for such documents to be available upon request? Should any cover letter/notice be translated, but not the underlying documentation (to save expense)?

(4) Calendaring. Is it appropriate (a) to continue the status conference and settlement motion (dkt. 19) for a relatively brief time, so that the parties can prepare the settlement documentation for review by this Court prior to mailing, and (b) take off calendar (without prejudice) all other matters that have been set for hearing today, including the overbid procedures motion (dkt. 149)?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 8/7/18:

Continue as stated below. No appearances required on 8/7/18.

(1) Current issues. This Court has reviewed the parties' joint status report (dkt. 262) and other relevant pleadings in this case.

(a) Bid Procedures Motion (dkt. 149). The tentative ruling is to defer ruling on this until after resolution of the discovery dispute and continue the hearing to a date and time to be set at the continued status conference set forth below.

(b) Motion to Approve Compromise (dkt. 36). The tentative ruling is to defer ruling on this until after resolution of the discovery dispute and continue the hearing to a date and time to be set at the continued status conference set forth below.

(c) Motion to Determine Extent & Priority of Truck Drivers' Liens (dkt. 122). The tentative ruling is to defer ruling on this until after resolution of the motion to disqualify and continue the hearing to a date and time to be set at the continued status conference set forth below.

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 9/4/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 5/29/18:

Appearances required.

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(1) Current issues.

(a) Debtor's Motion to Extend Time to Assume or Reject Lease (dkt. 139). Debtor seeks an extension of time to assume or reject its lease of commercial real property located at 2727 E. Del Amo Blvd., Rancho Dominguez, CA 90221 (the "Property") with Joe Murez Exempt Trust ("JMET" or "Landlord") through June 4, 2018. But in connection with Landlord's currently motion (dkt. 184, see discussion below), the debtor concedes that there are incurable defaults that prevent it from assuming the lease and states that it intends to vacate and surrender the Property by May 31, 2018 (dkt. 197, PDF p. 7, lines 17-19 & Wallace Declaration, paragraph 14). Additionally, on May 7, 2018, debtor served its subtenants with 30-day notices to terminate rental agreement with an expiration date of June 6, 2018 (*id.*, Ex. A).

In Landlord's motion (dkt. 184, see discussion below), it seeks possession of the Property effective as of June 5, 2018 and appears to have consented to an extension through that time (see dkt. 184, PDF p. 4, lines 26-27).

The tentative ruling is to grant the debtor's motion and extend the deadline to assume or reject the lease to May 31, 2018. The effects of that date on the subtenants and the Landlord are addressed below.

(b) Landlord's Motion for Administrative Claim and Possession of Property (dkt. 184).

(i) Base rent, late fees, interest, CAM, taxes, attorneys' fees and costs. Pursuant to 11 U.S.C. 365(d)(3), Landlord is entitled to an allowed administrative expense for the full amount of rent accrued during the period following the order for relief through the lease rejection, regardless of the actual value conferred by the lease upon the estate. See *Pacific-Atlantic Trading Company*, 27 F.3d 401 (9th Cir. 1994); *In re Cukierman*, 265 F.3d 846 (9th Cir. 2001). Section 365(d)(3) requires immediate payment of lease obligations so that the landlord is not left providing uncompensated services. *In re Cukierman*, 265 F.3d at 851-52.

In this case, Paragraph 4.1 of the Lease provides: "All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be Rent." Pursuant to paragraphs 1.5, 4.3, 10.2, 13.4, 13.5, and 31, Landlord is entitled to an allowed administrative expense for payment of base rent, late fees, interest, CAM, taxes, and

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attorneys' fees and costs. On the record before this Court, Landlord holds an estimated administrative expense in the amount of \$79,965.01 (\$48,626 (May rent) + \$4,862.20 (late fee) + \$11,661.31 (real property taxes) + \$14,815.5 (attorneys fees) = \$79,965.01). Landlord may supplement the record to establish a valid basis for any additional amounts it may be entitled to under the Lease (e.g., prorated June rent if the debtor has not turned over the premises as of 5/31/18).

(ii) No superpriority. Section 365(d)(3) does not authorize a superpriority over other administrative expenses. *In re LPM Corp.*, 300 F.3d 1134 (9th Cir. 2002). It is possible that the estate will be administratively insolvent (although the estate's assets and its administrative claims are largely moving targets until the conclusion of any bankruptcy case) so if Landlord had slept on its rights and were seeking prior months' rent it would not be entitled to payment at this time; but that is not the situation.

Landlords are entitled to current payments. Other administrative claimants are not. There is no evidence that this Landlord has slept on its rights.

Reconciling the lack of priority with the entitlement to current payments, the tentative ruling is that Landlord is entitled to immediate payment of a *pro rata* share of funds that are available to pay estimated accrued administrative expenses to date. This is essentially the alternative relief requested by Landlord (see dkt. 200, p.4:4-8).

Because the interim fee applications (discussed below) seek approximately \$305,000 in fees and expenses, and because Landlord's claim is approximately \$79,965.01, it appears that the rough total of accrued administrative expenses is approximately \$385,000, of which Landlord holds roughly \$80,000, or approximately 20% ($\$80,000/\$385,000 = 20.8\%$). Therefore, the tentative ruling is that Landlord is entitled to immediate payment of approximately 20% of the \$47,000 in unrestricted funds currently in debtor's possession (dkt. 197, PDF p. 13, paragraph 13), or approximately \$9,400.

(iii) Landlord has not established that the funds are held in trust for it. This Court is not persuaded that the \$47,000 in funds debtor has on hand is being held in trust for Landlord. Landlord has not carried its burden of establishing that, under California law, an express trust exists that excepts these funds from estate property. See *Golden Mortg. Fund # 14 v. Kennedy*, 171 B.R. 79, 84 (9th Cir. BAP 1994) ("A creditor has the burden to prove that

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the funds in the debtor's possession should be held in trust for that creditor's benefit").

(iv) Surrender and Writ of Possession. Landlord has discretion whether to extend the time for the debtor to assume or reject the Lease beyond the statutory maximum, or permit occupancy after rejection, absent nonbankruptcy law that would permit occupants to continue in possession. As set forth above, the tentative ruling is that the lease will be deemed rejected on 5/31/18.

Because neither the subtenants nor any other party in interest has articulated a sufficient basis for the subtenants to continue to occupy the Property following rejection of the Lease, the tentative ruling is to grant Landlord's request for a writ of possession directing any subtenants to surrender and vacate the property effective 6/6/18. Landlord is instructed to review LBR 7064-1 and include the necessary language set forth in 7064-1(e) into the proposed order.

(v) Relief from stay. The tentative ruling is to grant Landlord relief from the automatic stay under 362(d)(1).

(vi) Waiver of 14-day stay. The tentative ruling is to waive the 14-day stay.

(c) Interim Fee Apps of Levene Neale Bender Yoo & Brill (dkt. 177); CohenReznick LLP (dkt. 178); and Haberbush & Associates LLP (dkt. 179), and related documents (dkt. 200, 214). The tentative ruling is to approve the applications on an interim basis, subject to final review and approval at the conclusion of the case, but deny the requests for immediate payment of fees and expenses given the debtor's limited funds on hand, except that Haberbush & Associates may draw down on its pre-petition retainer, subject to the possibility of disgorgement in future.

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/7/18 at 2:00 p.m., to be heard concurrently with the other matters set for hearing in this case.
Brief status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 5/29/18:

This court anticipates posting a tentative ruling at a later time.

Revised Tentative Ruling for 5/22/18:

Appearances required.

(1) Current issues.

(a) April MOR (dkt.192). On PDF p. 3, the debtor identifies a payment made to "Transport" on 4/26/18 in the amount of \$55,515.00 for "dispatch and brokerage svc." What is this payment for? Is it an "ordinary course" transaction?

(b) Motion to Disqualify Truck Driver Counsel (dkt. 125). This Court issued an order (dkt. 169, amended dkt. 175) continuing this motion and set (i) a 5/15/18 deadline for the Slattery Law Firm and Hirsch Law Firm to file supplemental papers addressing who properly represents the Truck Drivers; and (ii) a 5/21/18 at noon deadline to file any responses.

This Court has reviewed the relevant papers. See dkt. 125, 126 & 127 (motion papers), dkt. 143 (Hirsch opposition), dkt. 145 (Slattery opposition), dkt. 156, 157 (debtor's reply), dkt. 161 (Slattery decl.), dkt. 167 (Slattery Rule 2019 statements), dkt. 189 (debtor's authorities re attorney-client privilege as applied to retainer agreements), dkt. 199 (Hirsch supp. opposition), dkt. 201 (Slattery decl.), dkt. 202 (Hirsch supp. reply), dkt. 203 (Hirsch evid. obj. to Slattery decl.), dkt. 204 (Rivera|Shakleford opp. re S.H. Chung, R.M. Rubio, H.D. Alvarez & G. Perez Silva).

There is no tentative ruling, but the parties should be prepared to address the arguments set forth in the filed papers.

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CONT...

Fargo Trucking Company, Inc.

Chapter 11

(c) Objection to Claim Nos. 11, 37, 38, 40, 44, 45, 50 (dkt. 108, 109, 111, 113, 115, 117, 119). The proofs of claim were filed by the Hirsch Law Firm and the claim objections/notices were served on the Hirsch Law Firm and Slattery Law Firm. However, based on the debtor's pending motion to disqualify both firms, the tentative ruling is to continue the hearings on these claim objections to **6/19/18 at 2:00 p.m.**, pending resolution of the motion to disqualify. At the continued hearings, the parties should be prepared to address whether it would be appropriate for this court to set continued oppositions deadlines.

Note: Counsel did not comply with Judge Bason's posted procedures (at www.cacb.uscourts.gov) requiring a cost/benefit analysis for any claim objection (although this court's own cost/benefit analysis appears to favor seeking to reclassify these claim). In future, counsel should comply with those posted procedures.

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/29/18 at 2:00 p.m., to be heard concurrently with the other matters set for hearing in this case. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/22/18:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 5/1/18:

This court anticipates posting a tentative ruling at a later time.

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CONT... Fargo Trucking Company, Inc.

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Tentative Ruling for 3/6/18:
Appearances required.

(1) Current issues.

(a) Motion to Approve Compromise (dkt. 36). The parties should be prepared to address the status of any settlement negotiations with respect to the pending motion to approve compromise.

(b) Status Report. At the last status conference on 2/13/18, this court directed the debtor to file a brief status report by 2/27/18. As of the preparation of this tentative ruling, the debtor has not complied. The debtor should be prepared to address why it failed to comply with this court's order.

(c) Employment application: Creditors' Committee Counsel (dkt. 47, 65). The objection by certain truck drivers (dkt. 63) has been withdrawn (dkt. 89). The debtor's limited objection (dkt. 55) and the reply papers (dkt. 85, 86) raise issues that are best addressed in connection with any application for compensation, at which time this Court can evaluate whether the hourly billing rates are commensurate with the nature of the work performed, the time spent on each task, and the other factors under 11 U.S.C. 330. Therefore the tentative ruling is to overrule the objection and authorize the employment.

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/1/18 at 1:00 p.m., *brief* status report due 4/17/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues.

The parties should be prepared to address (a) whether the Court should order mandatory mediation of the proposed settlement, proposed assignment of the lease, and related issues; (b) whether concurrently this Court should set deadlines such as a discovery cutoff or, conversely, whether this Court should temporarily issue a stay of some litigation; and (c) whether the parties would prefer that this Court provide some tentative rulings or preliminary thoughts on various issues, or if instead it would foster possible settlement or serve other beneficial goals for this Court not to do those things at this stage of the case.

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/1/18 at 1:00 p.m., *brief* status report due 4/17/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/5/17:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

n/a

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CONT... **Fargo Trucking Company, Inc.**

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(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 2/15/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: This court will discuss setting a deadline for the filing of a draft plan/disclosure statement at the status conference.

(c) Continued status conference: 2/13/18 at 1:00 p.m., *brief* status report due 1/30/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Fargo Trucking Company, Inc.

Represented By

Vanessa M Haberbush

David R Haberbush

Lane K Bogard

Trustee(s):

Timothy J. Yoo

Pro Se

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#3.00 Cont'd hrg re: Motion for Order: (1) Approving Asset Purchase Agreement and Authorizing the Sale of Property Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. § 363(b) and (f); (2) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; (3) Approving the Form and Manner of Notice; and (4) Approving Buyer as Good Faith Purchaser Pursuant to 11 U.S.C. § 363(m) fr. 5/7/19, 05/21/19, 6/18/19

Docket 80

Tentative Ruling:

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5, 7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

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CONT... Jackies Cookie Connection LLC

Chapter 11

Movant(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

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2:18-24571 Jackies Cookie Connection LLC

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#4.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 5/7/19, 05/21/19, 6/18/19

Docket 76

Tentative Ruling:

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5, 7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019, 5/7/19, 05/21/19, 6/18/19

Docket 5

Tentative Ruling:

Tentative Ruling for 7/30/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80);
Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

At the 6/18/19 hearing, this Court was informed that payments under Part 1 of the sale were complete but some equipment had yet to be removed, and Part 2 was still being funded. What is the current status of these matters?

Continue to the same date and time as the continued status conference, as set forth below.

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Continue to the same date and time as the continued status conference, as set forth below.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 8/20/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/18/19:
Appearances required.

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

There has been little activity on the docket since the last status conference in this case, and it is unclear whether Sale Part One has closed. Has Sale Part One closed? If so, what progress has been made re Sale Part Two? Should this Court continue the Sale Motion to the same time as the continued status conference (see below)?

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Should this Court continue the Conversion Motion to the same time as the continued status conference (see below)?

(c) Amended bar date order (dkt. 112)

This Court issued its Amended Order Setting Bar Date (dkt. 112), directing service by Debtor be completed by 5/24/19. The docket does not reflect any proof of service. Was the order timely served? If so, the tentative ruling is to set a deadline of 6/19/19 to file a proof of such service; and if not, the tentative ruling is to issue a new order setting a new bar date.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 7/30/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status

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conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:
Appearances required.

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

At the hearing on 5/7/19 this Court adopted the tentative ruling and granted the Sale Motion, with a waiver of the 14-day stay under 6004(h), subject some modifications. First, although this Court overruled objections and approved Sale Part One (as described in the Sale Motion), this Court set this continued hearing on 5/21/19 to address whether that sale has closed, and to resolve any issues involving the dollar amounts need to (i) cure leased equipment defaults or (ii) pay financed equipment liens.

Second, as to the proposed Sale Part Two, this Court ruled that the sale to Debtor's principal, Ms. Galant, is approved for a payment of \$100,000 and can close with no further order of this Court. But if it turns out that she is unable to pay that price (within the time frame outlined in the Sale Motion), and (i) if she proposes to pay between \$50,000 and \$99,999, then the parties would need to address what remedies are appropriate, such as opening up the proposed sale to overbids; and (ii) if she proposes to pay less than \$50,000 then the proposed Sale Part Two is disapproved, and the intellectual property (and miscellaneous assets included in Sale Part Two) would continue to belong to bankruptcy estate, and could be sold or otherwise addressed.

This Court directed Debtor to lodge a proposed order memorializing the foregoing rulings. As of the preparation of this tentative ruling, no such proposed order has been lodged. Why not?

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In any event, are there any issues that are properly before this Court at this time in connection with the Sale Motion? Should this Court continue the Sale Motion to the same time as the continued status conference (see below)?

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

There is no tentative ruling, but the parties should be prepared to address the following issues. It is unclear whether Sale Part One has closed. This Court notes that there is a declaration (dkt. 107) of a real estate broker for Debtor's principal, Ms. Galant, regarding the listing of her property for sale (which was contemplated to fund the Sale Part Two); but there is no information about the refinancing the Ms. Galant was contemplating (which was contemplated to fund the Sale Part One).

Should this Court continue the Conversion Motion to the same time as the continued status conference (see below)?

(c) Bar date order (dkt. 108)

This Court issued its Order Setting Bar Date (dkt. 108), directing service by Debtor be completed by 5/10/19. The docket does not reflect any proof of service. What the order timely served? If so, the tentative ruling is to set a deadline of 5/22/19 to file a proof of such service; and if not, the tentative ruling is to issue a new order setting a new bar date.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 6/20/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 6/18/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 5/7/19:
Appearances required.

(1) Current issues

(a) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Continue to be heard concurrently with the continued status conference (see part "(2)" of this tentative ruling, below). If, prior to the continued hearing date, Debtor files a declaration that it has closed the proposed Sale Part One, this Court anticipates that the tentative ruling for the continued hearing will be to deny the Conversion Motion without prejudice.

(b) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

Grant the Sale Motion, but only on the following terms:

(i) Minimum dollar amount for Sale Part Two. Debtor's principal, Ms. Rachel Galant, is essentially agreeing to pay debts on which she is already the guarantor (Sale Part One, estimated at \$450,000), and if there is any money left over from the anticipated \$550,000 proceeds of the refinance and sale of her home, then that residual amount (estimated at \$100,000, but possibly much less, down to \$-0-) will be used to pay for Debtor's intellectual property and some *de minimus* assets (Sale Part Two).

The tentative ruling is that there must be a minimum dollar amount payable for Sale Part Two. That is essentially the consideration Ms. Galant must pay (beyond what she owes anyway, as a guarantor) for being able to continue her business without successor liability, based on the Bankruptcy Code's ability to sell property free and clear of an liability that would otherwise follow the assets (which is one type of "interest" in such property). See, e.g., *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003). See also *Myers v. U.S.*, 297 B.R. 774 (Bankr. S.D. Cal. 2003).

The tentative ruling is to set the minimum consideration for the Sale Part Two at not less than \$50,000. The tentative ruling is that this dollar amount is subject to overbids, as set forth below.

(ii) Overbids. The proposed sale must be subject to any overbids at the hearing, including any overbids that are not cash (in whole or

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in part), or that are for fewer than all assets, or any other combination of things. Any "highest and best" determination must be made initially by Debtor, but subject to any objections and resolution by this Court. See generally, e.g., *In re Lahijani*, 325 B.R. 282 (9th Cir. BAP 2005); *In re Mickey Thompson Entm't Group, Inc.*, 292 B.R. 415, 421 (9th Cir. BAP 2003).

(iii) Backup bids. Any sale must be subject to any backup bids, in the event the winning bidder does not timely close either Sale Part One or Sale Part Two. For example, if the proposed purchaser - Debtor's principal - were to close Sale Part One but fail to close the Sale Part Two, and if a backup bidder has been approved for Sale Part Two, then the backup bidder could acquire the Sale Part Two assets (Debtor's recipes, trademarks, and other intellectual property).

(iv) Deadline for resolution of any disputes regarding purchase/cure amounts for equipment. The motion lists some cure/payment amounts as "TBD." In addition, one creditor has objected. See Sale Motion (dkt. 82, Schedules A&B), and see Direct Cap. Corp. Obj. (dkt. 93) (asserting \$11,050.14 arrears plus \$5,411.34 attorney fees to date, for a total alleged cure amount of approximately \$16,461.48).

The tentative ruling is to set a deadline of **May 20, 2019** for Debtor to reach agreement with any equipment lessor/lienholder, or else those creditors will be free to repossess the equipment and must be given access to do so on 24 hours' notice. The reason is that the equipment must be removed by the end of May, or the bankruptcy estate will "abandon" the equipment (technically, an "abandonment" under 11 U.S.C. 554 is abandonment from the estate to Debtor; but Debtor apparently means that it intends to leave the equipment at the landlord's premises, for disposition by the landlord - this Court expresses no opinion whether that would create any postpetition liability, or what competing rights might exist in the equipment at that point). Any dispute can be addressed at the continued hearing on the same date as the continued status conference (see below).

(v) Good faith finding

Any "good faith" finding under 11 U.S.C. 363(m) will need to be supported by sufficient evidence (see the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov). Normally that would include more information than what is Ms. Galant's declaration. See Dkt. 82, p.6:1-7. But the tentative ruling is to accept that declaration, combined with the purchase price above the debts for which she is personally liable and the agreement to

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turn over to Debtor any profit on resale of equipment, as sufficient *prima facie* evidence of good faith.

As to the objection of the "Objecting Creditors" (Mr. Haloosim *et al.*, dkt. 87), this Court is inclined to agree with Debtor that, on the present record, there is a *prima facie* showing by Debtor of sufficient marketing, and insufficient evidence of any improper conduct by Debtor. As for their objections under 11 U.S.C. 363(f), this Court questions whether they have an "interest" in the property to be sold and, if not, whether they have standing to raise any objections. In addition, as stated in the posted Producedures of Judge Bason (available at www.cacb.uscourts.gov):

§ 363(f): Sales free and clear. Regarding § 363(f)(5), Judge Bason does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under that statute whenever the interest at issue is subject to monetary valuation. *See In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, Judge Bason has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). *See* Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)).

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(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/21/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

(1) Current issues

This Court has reviewed the debtor's latest filed documents and is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/7/19 at 2:00 p.m., to be concurrent with the motion of the United States Trustee to convert or dismiss this case (dkt. 76, 90) and Debtor's 363 sale motion (dkt. 80). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required for the status conference, but not for the abandonment motion. Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Dismissal or conversion

Debtor's fourth status report alleges (dkt. 62, p.2:10) that a "363 motion, supported with a stalking horse bid, will be submitted to the court" at some unspecified future date. This Court and parties in interest have heard that hope before, but it appears highly unlikely that Debtor will receive a bid that will exceeding the losses that are accruing meanwhile.

Debtor's situation appears to be getting steadily worse, both on a cash basis and in terms of accrued liabilities for postpetition real property rent, equipment leasing, etc. See MOR for Jan. 2019 (dkt. 57) (small positive cash flow, but \$48,522.19 in postpetition payables as against \$6,281.31 receivables) *and* MOR for Feb. 2019 (dkt. 63) lines 22-25 (net cash flow of (\$1765.14) and increase in payables to \$96,380.19 - almost double the prior month - as against \$6,281.31 receivables - unchanged).

The tentative ruling is to dismiss this case and let Debtor and its secured creditors/equipment lessors make whatever arrangements they see fit for disposing of the collateral/leased equipment. (Office of the United States Trustee to lodge proposed order.)

(b) Motion to Compel Abandonment of Property (dkt. 59)

Grant. (Movant Shmashssma, LLC to lodge proposed order.)

Proposed orders: The above-referenced parties are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR

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CONT... **Jackies Cookie Connection LLC**
9021-1(b)(1)(B).

Chapter 11

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues.

Debtor's status report (dkt. 55) reports some alleged progress in exploring either sale(s) of assets or sale of the business or both. What is the timeline? What assurances do creditors have that debtor's uncertainty on these issues (two months into this case) will not deplete rather than enhance any potential recoveries?

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., with a *brief* status report due 3/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... **Jackies Cookie Connection LLC**

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. Continue as set forth below.

(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and

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CONT... **Jackies Cookie Connection LLC** **Chapter 11**

related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy

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CONT... Jackies Cookie Connection LLC Chapter 11

schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#6.00 Hrg re: Declaration of Daniel M. Eliades in Further Support of
Wyndham Vacation Resort Inc.'s Motion to Compel

Docket 128

Tentative Ruling:

Continue to 8/6/19 at 2:00 p.m., to be heard concurrently with the other David MacMillan bankruptcy (2:16-bk-21559-NB) related matters. Appearances are not required on 7/30/19.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Movant(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
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2:00 PM

CONT...

David MacMillan

Christian T Kim

Chapter 7

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

4:30 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01122 David K. Gottlieb, Chapter 7 Trustee v. Martin

#1.00 Cont'd hrg re: Mediation
fr. 07/08/19; 07/22/19

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb, Chapter 7 Trustee

Represented By
Monica Y Kim
Beth Ann R Young

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
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Tuesday, July 30, 2019

Hearing Room 1545

4:30 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01106 David K. Gottlieb in his capacity as Chapter 7 Tru v. Roxe, LLC, a

#2.00 Cont'd hrg re: Mediation
fr. 07/08/19; 07/22/19

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Roxe, LLC, a California limited

Represented By
Dawn M Coulson

Michael Martin an individual

Represented By
Dawn M Coulson

Doe 1 through DOE 10, inclusive

Pro Se

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb in his capacity as

Represented By
Beth Ann R Young
Lindsey L Smith

Trustee(s):

David Keith Gottlieb (TR)

Represented By

**United States Bankruptcy Court
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4:30 PM

CONT...

Duane Daniel Martin

Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

Chapter 7

**United States Bankruptcy Court
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4:30 PM

1:16-10045 Duane Daniel Martin and Tisha Michelle Martin

Chapter 7

#3.00 Cont'd hrg. re: Mediation
fr. 07/08/19; 07/22/19

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
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4:30 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01122 David K. Gottlieb, Chapter 7 Trustee v. Martin

#4.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 7/8/19; 07/22/19

Docket 0

Tentative Ruling:

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb, Chapter 7 Trustee

Represented By
Monica Y Kim
Beth Ann R Young

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
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Tuesday, July 30, 2019

Hearing Room 1545

4:30 PM

1:16-10045 Duane Daniel Martin

Chapter 7

Adv#: 1:18-01106 David K. Gottlieb in his capacity as Chapter 7 Tru v. Roxe, LLC, a

#5.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 07/08/19; 07/22/19

Docket 0

Tentative Ruling:

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Defendant(s):

Roxe, LLC, a California limited

Represented By
Dawn M Coulson

Michael Martin an individual

Represented By
Dawn M Coulson

Doe 1 through DOE 10, inclusive

Pro Se

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Plaintiff(s):

David K. Gottlieb in his capacity as

Represented By
Beth Ann R Young
Lindsey L Smith

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
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4:30 PM

CONT...

Duane Daniel Martin

Jeffrey S Kwong
Beth Ann R Young

Chapter 7

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Tuesday, July 30, 2019

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4:30 PM

1:16-10045 Duane Daniel Martin and Tisha Michelle Martin

Chapter 7

#6.00 Cont'd hrg re: Telephonic Status Conference
fr. 7/2/19; 07/08/19; 07/22/19

Docket 0

Tentative Ruling:

Party Information

Debtor(s):

Duane Daniel Martin

Represented By
Stella A Havkin

Joint Debtor(s):

Tisha Michelle Martin

Represented By
Alan W Forsley
Joseph R Dunn

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong
Beth Ann R Young

**United States Bankruptcy Court
Central District of California
Los Angeles
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Wednesday, July 31, 2019

Hearing Room 1545

9:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

#1.00 Cont'd Telephonic Status Conference
fr. 7/2/19

Docket 1

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

**United States Bankruptcy Court
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Wednesday, July 31, 2019

Hearing Room 1545

9:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01022 Avery v. Beverly Hills Bestfields Investments, Inc. et al

#2.00 Cont'd Telephonic Status Conference
fr. 7/2/19

Docket 1

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.	Represented By Victor A Sahn
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Defendant(s):

Beverly Hills Bestfields	Represented By Nami Kang
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Accu-Test Structural Laboratories, Thomas Kim, dba Global	Pro Se Pro Se
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Plaintiff(s):

Wesley H Avery	Represented By Varand Gourjian
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Trustee(s):

Wesley H Avery (TR)	Represented By Varand Gourjian
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**United States Bankruptcy Court
Central District of California
Los Angeles
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Wednesday, July 31, 2019

Hearing Room 1545

9:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01023 Avery v. Kim et al

#3.00 Cont'd Telephonic Status Conference
fr. 7/2/19

Docket 1

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

Bon Koo Kim

Pro Se

Youngsook Kim

Pro Se

Ki Y Jang

Pro Se

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

**United States Bankruptcy Court
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Wednesday, July 31, 2019

Hearing Room 1545

9:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01116 Avery v. An

#4.00 Cont'd Telephonic Status Conference
fr. 7/2/19

Docket 1

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

Benjamin An

Represented By
Steven J Barkin

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

**United States Bankruptcy Court
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Los Angeles
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Wednesday, July 31, 2019

Hearing Room 1545

9:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01118 Avery v. King Star Security Patrol, Inc.

#5.00 Cont'd Telephonic Status Conference
fr. 7/2/19

Docket 1

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

King Star Security Patrol, Inc.

Represented By
Baird A Brown

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

**United States Bankruptcy Court
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Los Angeles
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Wednesday, July 31, 2019

Hearing Room 1545

9:00 AM

2:18-22799 Bricks Hospitality Group, L.L.C.

Chapter 7

Adv#: 2:19-01117 Avery v. Corbel Architects, Inc.

#6.00 Cont'd Telephonic Status Conference
fr. 7/2/19

Docket 1

Party Information

Debtor(s):

Bricks Hospitality Group, L.L.C.

Represented By
Victor A Sahn

Defendant(s):

Corbel Architects, Inc.

Represented By
Matthew A Lesnick

Plaintiff(s):

Wesley H Avery

Represented By
Varand Gourjian

Trustee(s):

Wesley H Avery (TR)

Represented By
Varand Gourjian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Friday, August 2, 2019

Hearing Room 1545

12:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#1.00 Hrg re: Ex Parte Application For Leave To File Surreponse To Debtors Reply To Cathay Banks Opposition To Motion For (1) Order Determining That Continuation Of Removed Action Against The Debtors Officers And Directors Violates The Automatic Stay, And (2) Temporary Restraining Order And Preliminary Injunction Enjoining Plaintiff Cathay Bank From Continuing Removed Action Against The Debtors Officers And Directors

Docket 22

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc	Represented By Craig G Margulies Montserrat Morales
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Defendant(s):

Schaefer Ambulance Service, Inc, a	Represented By Montserrat Morales Craig G Margulies
Louella M McNeal	Represented By Frances M O'Meara
Samir Yanni	Represented By Michael J Khouri
Leslie M. McNeal	Represented By Frances M O'Meara
Marlene L. McNeal	Represented By Frances M O'Meara
James McNeal III	Represented By Frances M O'Meara
Marlene McNeal	Represented By

**United States Bankruptcy Court
Central District of California
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Friday, August 2, 2019

Hearing Room 1545

12:00 PM

CONT... Schaefer Ambulance Service, Inc

Chapter 11

Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Leslie M McNeal

Represented By
Frances M O'Meara

Plaintiff(s):

Cathay Bank, a California banking

Represented By
Michael G Fletcher
Reed S Waddell
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:14-18247 Abel De Jesus Amaya

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 57

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Abel De Jesus Amaya Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Abel De Jesus Amaya

Represented By
William G Cort

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:15-12696 Marilyn Jean Shepherd

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

SPECIALIZED LOAN SERVICING, LLC
vs
DEBTOR

Docket 63

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
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Los Angeles
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Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Marilyn Jean Shepherd

Chapter 13

Party Information

Debtor(s):

Marilyn Jean Shepherd

Represented By
Kahlil J McAlpin

Movant(s):

SPECIALIZED LOAN SERVICING

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:18-10389 Donna Jeanne Roy

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NA
vs
DEBTOR

Docket 32

***** VACATED *** REASON: Motion for relief from stay withdrawn (dkt. 34)**

Tentative Ruling:

Party Information

Debtor(s):

Donna Jeanne Roy

Represented By
Sam Benevento

Movant(s):

JPMorgan Chase Bank, N.A.

Represented By
Kennessa C Hartin
Nathan F Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:18-22047 Shaquandway Bates

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

CARRINGTON MORTGAGE SERVICES, LLC
vs
DEBTOR

Docket 105

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Shaquandway Bates

Chapter 13

Party Information

Debtor(s):

Shaquandway Bates

Represented By
Justin D Graham

Movant(s):

Carrington Mortgage Services, LLC

Represented By
S Renee Sawyer Blume
Bonni S Mantovani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:18-24397 Eddie P Lawrence, SR

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

BSI FINANCIAL SERVICES
vs
DEBTOR

Docket 54

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Debtor requests a continuance due to plans to be out of the State (dkt. 56), but he does not address why he could not use this Court's procedures for a telephonic appearance (available at www.cacb.uscourts.gov). The tentative ruling is to deny the request for a continuance.

On the merits, Debtor appears to assert that (a) if Movant's predecessor in interest (Wells Fargo) had fulfilled its alleged promises for a loan modification, he could have applied the proceeds from another loan (a Keep Your Home California loan of approximately \$27,381) to paying Movant, (b) then his obligations to movant would be prepaid through sometime in 2020, (c) under a settlement offer from Wells Fargo in the underlying State Court litigation, Movant's loan would be brought current, and (d) Movant should contribute additional funds or concessions toward the settlement. Dkt. 56. Movant essentially replies that it cannot be charged with any alleged wrongdoing by Wells Fargo, and meanwhile it is not being paid. Dkt. 58.

The tentative ruling is that Debtor has not established why any alleged wrongdoing by Wells Fargo could be charged against Movant, nor has Debtor established any wrongdoing by Movant itself, or any other reason why Movant should be estopped to assert Debtor's failure to pay monthly mortgage payments. In other words, it is up to Debtor and Wells Fargo either to settle their claims or not, and meanwhile, the question for purposes of the present motion is whether Debtor's failure to make monthly payments to Movant is or is not "cause" for relief from the automatic stay (11 U.S.C. 362(d)(1)).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... **Eddie P Lawrence, SR**

Chapter 13

On the one hand, non-payment is usually considered to be such "cause" (even without evidence that the collateral is declining in value) because of the "time value" of money and other harms to creditors from non-payment. On the other hand, it appears that the defaults in payments to Movant might be cured, either (i) under the settlement communication attached to Debtor's papers, if Debtor commences payments as of 9/15/19, or (ii) through some other voluntary or involuntary payment by Wells Fargo. See dkt. 56, exhibit (last page). (This Court is considering that settlement communication only for the very limited purpose of noting that there are scenarios in which someone will be paying Movant.)

The tentative ruling is that if either Debtor or Wells Fargo do not cure the postpetition non-payments to Movant then Movant will be entitled to some form of relief from the automatic stay. If that results in a loss of Debtor's home, and if Debtor can establish that this is Wells Fargo's or Movant's fault, then he can seek damages from them in State Court. Meanwhile, Movant cannot be held in limbo indefinitely because the disputes between Debtor and Wells Fargo have not been resolved.

The parties should be prepared to address the foregoing, and whether a short continuance would be appropriate, to provide an opportunity to resolve these issues and have someone (either Debtor or Wells Fargo) pay Movant.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Eddie P Lawrence SR

Pro Se

Movant(s):

BSI Financial Services the duly

Represented By
Nichole Glowin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Eddie P Lawrence, SR

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:18-24834 Gilberto Andrade Jr.

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 45

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Gilberto Andrade Jr.

Chapter 13

Party Information

Debtor(s):

Gilberto Andrade Jr.

Represented By
Stephen L Burton

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-10974 Rafael A Gonzalez

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 27

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Rafael A Gonzalez

Represented By
Axel H Richter

Movant(s):

U.S. Bank National Association, as

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-12469 Vanessa Annette Huerta

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 25

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vanessa Annette Huerta

Represented By
Matthew D Resnik

Movant(s):

Wells Fargo Bank, National

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-12611 Margarita Dolores Gonzalez

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Margarita Dolores Gonzalez

Represented By
Michael E Clark

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-13655 Vivian Luz Alderete

Chapter 13

#10.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST
vs
DEBTOR

Docket 17

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vivian Luz Alderete

Represented By
Matthew D Resnik

Movant(s):

U.S. Bank Trust

Represented By
Nathan F Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-14661 Arcelia Arredondo

Chapter 7

#11.00 Hrg re: Motion for relief from stay [RP]

MTGLQ INVESTORS, L.P.
vs
DEBTOR

Docket 41

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Arcelia Arredondo

Chapter 7

Party Information

Debtor(s):

Arcelia Arredondo

Pro Se

Movant(s):

MTGLQ Investors, L.P

Represented By
Sean C Ferry
Cassandra J Richey

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:16-24351 Adam Paulino and Dorothy Jane Saura Paulino

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Adam Paulino and Dorothy Jane Saura Paulino

Chapter 13

Party Information

Debtor(s):

Adam Paulino

Represented By
Leon D Bayer
Jeffrey N Wishman

Joint Debtor(s):

Dorothy Jane Saura Paulino

Represented By
Leon D Bayer
Jeffrey N Wishman

Movant(s):

TOYOTA MOTOR CREDIT

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:17-23561 Remeleen Castor Penaflor

Chapter 7

#13.00 Hrg re: Motion for relief from stay [PP]

CALTECH EMPLOYEES FEDERAL CREDIT UNION
vs
DEBTOR

Docket 53

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Remeleen Castor Penaflor

Chapter 7

Party Information

Debtor(s):

Remeleen Castor Penaflor

Represented By
Arsen Pogosov

Movant(s):

CalTech Employees Federal Credit

Represented By
Larry D Webb

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-15410 Harry John Davis

Chapter 13

#14.00 Hrg re: Motion for relief from stay [PP]

KING OF CREDIT FINANCIAL, INC.
vs
DEBTOR

Docket 22

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Harry John Davis

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Harry John Davis

Represented By
Kevin T Simon

Movant(s):

KING OF CREDIT FINANCIAL,

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-17634 Nancy Onofre

Chapter 13

#15.00 Hrg re: Motion for relief from stay [PP]

TD AUTO FINANCE LLC
vs
DEBTOR

Docket 14

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Nancy Onofre

Chapter 13

Party Information

Debtor(s):

Nancy Onofre

Represented By
L. Tegan Rodkey

Movant(s):

TD Auto Finance LLC

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-15996 Jose Nelson Solis Broce

Chapter 13

#16.00 Hrg re: Motion for relief from stay [NA]

THE PEOPLE OF THE STATE OF CALIFORNIA
vs
DEBTOR

Docket 19

Tentative Ruling:

Grant the motion's requests for (a) relief from the automatic stay, and (b) dismissal with a bar, as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): response (dkt. 23), reply (dkt. 29).

The automatic stay does not apply

The motion papers establish that the exception to the automatic stay under 11 U.S.C. 362(b)(4) applies.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) for the reasons set forth in the motion papers and the reply.

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT...

Jose Nelson Solis Broce

Chapter 13

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Additional regarding relief from the automatic stay to pursue litigation

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). "'Cause' is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Jose Nelson Solis Broce

Chapter 13

action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that the foregoing factors, or close analogs to them, favor granting relief from the automatic stay. In particular: nonbankruptcy Courts can preside over criminal matters, which this Bankruptcy Court cannot do; the nonbankruptcy proceeding allegedly involves the debtor as a fiduciary; there is a very powerful public interest in pursuing restitution for victims as well as civil and criminal remedies; the nonbankruptcy matters have progressed substantially; judicial economy would be served by granting relief from the automatic stay - it makes sense to determine if any assets truly belong to Debtor, or instead if they are fraud victims' money, before it can be determined what, if anything, is part of any bankruptcy estate; the motion papers establish bad faith and an abuse of the bankruptcy system; and the balance of hurt tips sharply in favor of pursuing restitution and other remedies for alleged crime victims.

Dismissal, with a bar

"Cause" for dismissal has been established, within the meaning of 11 U.S.C. 1307(c), based on Debtor's failure to notify the prosecutors of the bankruptcy case, failure to list assets on the bankruptcy schedules, and other acts and omissions set forth in the motion papers. In addition, the tentative ruling is that the pattern and gravity of such acts and omissions establishes that they constitute a "willful" failure to appear in proper prosecution of this case within the meaning of 11 U.S.C. 109(g)(1). Accordingly, the tentative ruling is to dismiss this case with a 180-day bar against being a debtor in bankruptcy.

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Nelson Solis Broce

Represented By
Lionel E Giron

Movant(s):

The People of the State of California

Represented By
Wendy A Loo

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-17904 George Allen Jordan and Audrey Carolyn Jordan

Chapter 13

#17.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 6

Tentative Ruling:

Appearances are not required. Based on the motion (dkt.6), the opposition papers (dkt. 19), and the reply (dkt. 21), the tentative ruling is to find good faith by clear and convincing evidence and to grant the motion on the following conditions: (1) Debtors must amend their chapter 13 Plan to provide for repayment of objecting party Great Ajax over 36 months; (2) Debtors must be subject to a "stay-current" adequate protection order ("APO") on the usual terms (14 days' notice of any default; maximum of 3 cures of defaults; etc.); and (3) the conditions set forth below.

After the hearing date (1) Debtors must lodge a proposed APO and (2) this Court will prepare an order granting the 362(c)(3) motion except for the APO's conditions , and the tentative ruling is to include the following language in the latter order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some

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CONT... **George Allen Jordan and Audrey Carolyn Jordan** **Chapter 13**
creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

George Allen Jordan

Represented By
Richard Mark Garber

Joint Debtor(s):

Audrey Carolyn Jordan

Represented By
Richard Mark Garber

Movant(s):

George Allen Jordan

Represented By
Richard Mark Garber
Richard Mark Garber
Richard Mark Garber

Audrey Carolyn Jordan

Represented By
Richard Mark Garber
Richard Mark Garber
Richard Mark Garber

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-17969 Regina S. Vartanova

Chapter 13

#18.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 13

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Regina S. Vartanova

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Regina S. Vartanova

Represented By
Raj T Wadhvani

Movant(s):

Regina S. Vartanova

Represented By
Raj T Wadhvani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-18316 Ashley Susan Aarons

Chapter 11

#19.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 11

Tentative Ruling:

Appearances required.

The tentative ruling is to grant the motion in part and deny it in part by setting deadlines for Debtor to accomplish each of the items listed below. If Debtor fails timely to do so, objecting creditor Alliance Portfolio, Private Equity Finance, Inc. ("Alliance") (dkt. 21) and objecting creditor Patch of Land Lending, LLC ("Patch") (dkt. 25) would be authorized to file and serve motions for relief from the automatic stay on shortened time: a 14 day notice period, with any oppositions due 7 days prior to the hearing.

The items that Debtor must accomplish are:

(i) more information: by 8/13/19,

(A) declaration: file and serve on the objecting creditors and the United States Trustee a declaration detailing the amount of insurance proceeds that Debtor has received and/or expects to receive; and the progress to date regarding any repairs, as well as projected costs and timing of future repairs to the Bel Air Road property; and

(B) Schedule I: file an amended bankruptcy Schedule I that (in furtherance of the instructions for line 8a) includes 6 months of historical information and 6 months of projections for each property or business, including the Bel Air Road property roommates, and the music business, with breakdowns of revenues, expenses, and calculation of net income;

(ii) Bel Air refi/debt restructuring: by 9/24/19, file a motion to refinance the Bel Air Road property, or file a realistic plan of reorganization, or otherwise file appropriate papers aimed at stopping the running of postpetition default interest owed to Patch (and any other creditors whose interests are secured by that property and who might be able to charge default interest under 11 U.S.C. 506(b)), and

(iii) interest payments to Patch: if any such treatment of Patch has not been accomplished by 11/12/19, pay Patch on that date all accrued postpetition interest, at the non-default interest rate, and thereafter remain

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current in such payments, and

(iv) Sweetzer sale: by 11/12/19, close a sale of the Sweetzer Ave. property and pay Alliance out of escrow.

The foregoing deadlines are intended in part to assure that Debtor is making a good faith, expeditious attempt to address default interest. See *generally General Elec. Cap. Corp. v. Future Media Productions Inc.*, 536 F.3d 969, 974-75 (9th Cir. 2008) (default interest presumptively allowable under bankruptcy law, if allowed under nonbankruptcy law), *and compare In re Altadena Lincoln Crossing*, 2018 WL 3244502 (Bankr. C.D. Cal.) (disallowing default interest under California law), *rev'd*, 598 B.R. 633 (C.D. Cal. 2019) (appeal pending before 9th Cir.).

Analysis

(1) Burden on Debtor to show good faith by clear and convincing evidence

There is a presumption that this case was not filed in good faith. First, Debtor has not demonstrated a change in her financial circumstances since the dismissal of the prior case. 11 U.S.C. 362(c)(3)(C)(III). Second, and alternatively, there are reasons (set forth below) to conclude that this case will not be concluded with a confirmed chapter 11 plan that will be performed. 11 U.S.C. 362(c)(3)(C)(III)(b).

Debtor faces numerous hurdles to a successful chapter 11 restructuring of her finances. She admits that water damage has rendered the Bel Air Road property uninhabitable. Dkt. 11 at PDF p.10:18-20. There is no evidence about whether insurance covers all or only part of the repair costs, or how long it will take to repair the property and start generating income from it. There is also no evidence (apart from the very broad history in the Statement of Financial Affairs) of Debtor's level of past income from roommates or any detailed projections of future rental revenues, expenses, and net income. Nor is there any evidence to support Debtor's projected income from her music business, including past and projected gross revenues, expenses, and a calculation of monthly net income. In addition, the projected income and expenses on Debtor's bankruptcy Schedules I and J appears to be woefully inadequate, even with the projected roommate and music business income, to pay the monthly amounts that Alliance and Patch assert are owing to them: \$26,653/mo. for Alliance, and \$45,000/mo. for Patch. If such monthly payments continue to accrue and are allowed, they could consume any equity in the Bel Air Road property and gut any chance of

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reorganization.

In sum, there are many reasons to question whether Debtor ultimately can succeed in her attempted reorganization. If Debtor were seeking confirmation of a chapter 11 plan today, and had not presented more evidence of feasibility (11 U.S.C. 1129(a)(11)), her evidence would be woefully inadequate.

But at this very early stage of this bankruptcy case that is not the question. The question is whether Debtor has filed this case in a good faith attempt to reorganize.

(2) Evidence of Debtor's good faith

(a) Information

Although it would have been better by far to have provided far more information as noted above, this Court has to take judicial notice of the reality that most debtors' records are not in an ideal state when they spiral into bankruptcy.

(b) Counsel

Debtor points out that she filed her prior bankruptcy case without the assistance of legal counsel. The tentative ruling is that, although debtor was over the debt limits for a chapter 13 case (11 U.S.C. 109(e)), that appears to be an innocent mistake.

(c) Reasons for financial difficulties

Debtor has provided evidence of very understandable reasons for having gotten into financial difficulties, including extensive water damage to the Bel Air Road property, loss of rental income from that property, obtaining high interest loans to bridge the gap until debt could be consolidated/refinanced, and then spiraling problems when the new loan fell apart. See dkt. 11 at PDF p.10:18-24.

(d) Apparently sensible strategy

After dismissal of the prior chapter 13 case, Debtor has filed this chapter 11 case reasonably promptly, with the assistance of legal counsel, and is proposing an overall strategy that appears to be reasonably calculated to maximize her ability to pay creditors: selling the Sweetzer Ave. property and restoring the Bel Air Road property, which appears to have substantial equity, to a condition that can generate rental income that could pay refinanced debt. Although it is difficult to tell whether that strategy will be realistic - e.g., whether insurance proceeds will be sufficient and will be

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available timely - those things will become apparent soon enough, and there are remedies that Debtor and creditors can pursue if Debtor needs to change course or if this case needs to be converted or dismissed.

(e) Adequate protection of objecting creditors' interests

Both Alliance and Patch appear to be adequately protected by very substantial equity cushions above their (first lien) debts. That alone appears to establish that, unless there were evidence that the overriding purpose of this case was to delay those creditors' remedies, this case is filed in good faith as to them.

True, Debtor's assertion that she has some equity in the Sweetzer Ave. property appears to be undercut by her own listing price. But, regardless whether that property is underwater, an orderly sale under 11 U.S.C. 363(b)&(f) is far more likely to maximize all creditors' recoveries than termination of the automatic stay and a foreclosure sale. That is what Debtor is proposing, so she appears to be proceeding in good faith regarding the Sweetzer Ave. property, both with respect to Alliance and with respect to all other creditors.

As for the Bel Air Road property, Debtor is proposing to pay the postpetition mortgage payments when due (see dkt. 11, p.8, para.7), and although it is true that she appears unable to do so as long as the property remains uninhabitable, the tentative ruling is that sufficient evidence of good faith is established by (i) the equity in that property (according to Debtor's sworn bankruptcy schedules and the other evidence before this Court), (ii) Debtor's expectation of being able to repair the property with insurance proceeds, and (iii) Debtor's apparent commitment to make the property habitable quickly, and resume regular monthly payments to Patch - if anything, Debtor's anticipated payments to Patch might be overly ambitious, but Patch's very large equity cushion combined with Debtor's eagerness to pay what she can appears to show good faith. In sum, from the evidence presented the tentative ruling is that Debtor is proceeding in good faith regarding the Bel Air Road property, both with respect to Patch and with respect to all other creditors.

(3) Conclusion

The bottom line is that there appears to be substantial equity in the Bel Air Road property, and Debtor appears to be proposing in good faith a strategy of selling the Sweetzer Ave. property and repairing the Bel Air Road

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property and obtaining roommate income sufficient to pay refinanced or restructured debts. That approach appears, on the present record, to be a good faith attempt to maximize recovery for all creditors while adequately protection Alliance and Patch.

The tentative ruling is that, by clear and convincing evidence, Debtor has rebutted the presumption of a lack of good faith and has shown that this case has been filed in good faith.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

Movant(s):

Ashley Susan Aarons

Represented By
Todd L Turoci
Todd L Turoci

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2:19-18306 Rose J West

Chapter 13

#20.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

Grant, subject to the following conditions, and also subject to any opposition at the hearing because the motion papers erroneously state that the hearing is on regular notice and that any opposition would be due 14 days prior to the hearing, which is only one day after the original motion was filed (dkt. 12) and the same day the amended motion was filed (dkt. 16), whereas in fact any opposition would have been due 5 days prior to the hearing (per the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov), and the erroneous notice might cause creditors to be confused and to appear at the hearing. Appearances required.

No fees for this appearance, absent specific authorization. Counsel is directed not to charge any fees for appearing at this hearing, because appearances presumably would not have been necessary but for the incorrect notice (see above).

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing

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Rose J West

Chapter 13

on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rose J West

Represented By
Daniela P Romero

Movant(s):

Rose J West

Represented By
Daniela P Romero

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-11355 Katherine C. Ford

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/30/19, 6/18/19

BAYVIEW LOAN SERVICING, LLC
VS
DEBTOR

Docket 31

***** VACATED *** REASON: Voluntary dismissal of motion filed on
7/11/19 [dkt. 34]**

Tentative Ruling:

Party Information

Debtor(s):

Katherine C. Ford

Represented By
Thomas B Ure

Movant(s):

Bayview Loan Servicing, LLC., as

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-19093 Rodney Albert Gabriel, Jr

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/11/19, 7/2/19

NATIONAL MORTGAGE, LLC
vs
DEBTOR

Docket 62

Tentative Ruling:

Tentative Ruling for 8/6/19:

Appearances required. At the previous hearing, the parties noted that another of Debtor's properties had been sold and that Movant's debt may be paid in full out of the proceeds. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/2/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic

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CONT... **Rodney Albert Gabriel, Jr**

Chapter 13

stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodney Albert Gabriel Jr

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16516 Satinderjit Singh Chadha

Chapter 13

#23.00 ***[CASE DISMISSED ON 6/19/19]***

Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/9/19

JP MORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 13

Tentative Ruling:

Tentative Ruling for 8/6/19:

Appearances required. At the prior hearing, the parties indicated that they may enter into a global settlement of issues involving this Motion and a state court case. There is no tentative ruling, but the parties should be prepared to address whether the parties have entered into a global settlement. If not, the tentative ruling is to grant the motion as stated in the tentative ruling for 7/9/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/9/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

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Chapter 13

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Movant has Standing to Seek Relief from Stay.

Debtor attaches several letters in her opposition, which allege that Movant does not have standing to foreclose because the original mortgagor, Washington Mutual Bank, FA ("WAMU") allegedly sold the deed of trust and the note prior to being taken over by the FDIC. See dkt. 20 (amending dkt.19). Debtor bases this supposition on the fact that an officer of WAMU endorsed the promissory note in blank. See dkt. 20 at PDF pp.5-6,19&66; dkt.19 at PDF pp.3&13; *and* dkt. 13, Ex.1, p.5.

It is true that the motion papers do not assert that Movant has possession of the promissory note (see dkt. 13 at p.11), but Movant has provided evidence that it is an assignee of the deed of trust. Dkt. 13, ex. 3 at PDF p. 30-31. That is sufficient for purposes of a motion for relief from the automatic stay. See *In re Gallagher*, 2012 WL 2900477 (Bankr. C.D. Cal.) (following *In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011)); *In re Dahl* (Case No. 2:11-bk-11028-NB), Memorandum Decision (dkt. 75) at 2 n. 1.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. Compare *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311) (different procedure required for such relief).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any

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Satinderjit Singh Chadha

Chapter 13

bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Satinderjit Singh Chadha

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Satinderjit Singh Chadha

Chapter 13

Movant(s):

JPMorgan Chase Bank, National

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-15640 Reina Elizabeth Gonzalez

Chapter 7

#24.00 Hrg re: Motion for relief from stay [UD]

CHRISTOPHER M. KINSLING
vs
DEBTOR

Docket 17

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

CONT... Reina Elizabeth Gonzalez

Chapter 7

Party Information

Debtor(s):

Reina Elizabeth Gonzalez

Pro Se

Movant(s):

Christopher M. Kinsling

Represented By
Joseph Cruz

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:19-18197 Evelyn Sahagun Caba

Chapter 13

#25.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 17

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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10:00 AM

CONT... Evelyn Sahagun Caba Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Evelyn Sahagun Caba

Represented By
Rebecca Tomilowitz

Movant(s):

Evelyn Sahagun Caba

Represented By
Rebecca Tomilowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 6, 2019

Hearing Room 1545

10:00 AM

2:17-21407 Jose G Garcia and Maria E. Garcia

Chapter 13

#26.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19, 7/9/19

BAYVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 49

Tentative Ruling:

Tentative Ruling for 8/6/19 (same as for 7/9/19):

Appearances required. At the prior hearing, this Court was persuaded to grant a continuance for a possible adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

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10:00 AM

CONT... **Jose G Garcia and Maria E. Garcia** **Chapter 13**
present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose G Garcia

Represented By
Julie J Villalobos

Joint Debtor(s):

Maria E. Garcia

Represented By
Julie J Villalobos

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 6, 2019

Hearing Room 1545

11:00 AM

2:18-13667 Roland J. Valdez and Inez M. Valdez

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application of fees and expenses
[Jason M. Rund, Trustee]

Docket 119

Tentative Ruling:

Allow \$16,857.74 in fees and \$206.40 in expenses, for a total of \$17,064.14.
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Roland J. Valdez

Represented By
Bruce A Wilson

Joint Debtor(s):

Inez M. Valdez

Represented By
Bruce A Wilson

Trustee(s):

Jason M Rund (TR)

Represented By
Thomas H Casey
Kathleen J McCarthy

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 6, 2019

Hearing Room 1545

11:00 AM

2:18-13667 Roland J. Valdez and Inez M. Valdez

Chapter 7

#2.00 Hrg re: First and Final Application for Fees
and Reimbursement of Expenses
[Thomas H. Casey, Inc., Attorney for Chapter 7 Trustee]

Docket 117

Tentative Ruling:

Allow \$49,817.00 in fees and \$1,478.86 in expenses, for a total of \$51,295.86. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Roland J. Valdez

Represented By
Bruce A Wilson

Joint Debtor(s):

Inez M. Valdez

Represented By
Bruce A Wilson

Movant(s):

Jason M Rund (TR)

Represented By
Thomas H Casey

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

CONT... Roland J. Valdez and Inez M. Valdez

Chapter 7

Kathleen J McCarthy

Trustee(s):

Jason M Rund (TR)

Represented By

Thomas H Casey

Kathleen J McCarthy

**United States Bankruptcy Court
Central District of California
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Tuesday, August 6, 2019

Hearing Room 1545

11:00 AM

2:18-13667 Roland J. Valdez and Inez M. Valdez

Chapter 7

#3.00 Hrg re: First & Final Fee Application for allowance of fees and expenses [Hahn Fife & Company, Accountant]

Docket 115

Tentative Ruling:

Allow \$3,318.00 in fees and \$411.70 in expenses, for a total of \$3,729.70.
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Roland J. Valdez

Represented By
Bruce A Wilson

Joint Debtor(s):

Inez M. Valdez

Represented By
Bruce A Wilson

Movant(s):

Hahn Fife & Company

Pro Se

**United States Bankruptcy Court
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11:00 AM

CONT... Roland J. Valdez and Inez M. Valdez

Chapter 7

Trustee(s):

Jason M Rund (TR)

Represented By
Thomas H Casey
Kathleen J McCarthy

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 6, 2019

Hearing Room 1545

11:00 AM

2:16-24010 Ricky Grayson

Chapter 7

Adv#: 2:18-01030 Construction Laborers Trust Funds for So Calif v. GRAYSON

#4.00 Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt and for Specific Performance Compelling an Audit
fr. 4/10/18, 4/17/18, 5/22/18, 6/12/18, 10/16/18, 03/05/19, 06/04/19

Docket 1

***** VACATED *** REASON: Order dismissing adversary approved on 6/6/19 [dkt. 23]**

Tentative Ruling:

Party Information

Debtor(s):

Ricky Grayson

Represented By
Yelena Gurevich

Defendant(s):

RICKY TYRONE GRAYSON

Represented By
Ryan A. Stubbe

Plaintiff(s):

Construction Laborers Trust Funds

Represented By
Marsha M Hamasaki
Jeffrey D Sackman

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel
Sonia Singh

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 6, 2019

Hearing Room 1545

11:00 AM

2:19-16732 Rodney Phillip Walker

Chapter 7

Adv#: 2:19-01239 Estate of Alfredo William Walker v. Walker

#5.00 Order to show cause why removed
proceeding should not be remanded

Docket 2

Tentative Ruling:

Appearances required. The tentative ruling, subject to the response due 8/5/19 at noon, is to abstain and remand this case, for the reasons stated in this Court's Order to Show Cause (adv. dkt. 2).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodney Phillip Walker Pro Se

Defendant(s):

Greg Walker Pro Se

Plaintiff(s):

Estate of Alfredo William Walker Pro Se

Trustee(s):

Heide Kurtz (TR) Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, August 6, 2019

Hearing Room 1545

1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

#1.00 Combined hrg re: Disclosure statement
and approval of plan

Docket 109

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2,
8/6/19 at 1:00 p.m.)

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
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Tuesday, August 6, 2019

Hearing Room 1545

1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/14/18, 9/18/18, 10/16/18, 11/27/18, 01/09/18,
2/5/19; 04/02/19, 05/21/19, 7/2/19

Docket 7

Tentative Ruling:

Tentative Ruling for 8/6/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Third Amended Disclosure Statement (dkt. 104) and Plan (dkt. 105); and recent supporting documents (dkt. 106, 107)

This Court's order setting a combined hearing on Debtor's plan and disclosure statement (dkt. 109) directed Debtor to file a proof of service of the voting package and to file a ballot summary by 7/30/19. Dkt. 109 at p.2. As of the preparation of this tentative ruling, those documents have not been filed.

Proposed order: If the foregoing deficiencies are cured, and if this Court is persuaded (a) to approve the disclosure statement on a final basis and (b) to confirm the plan, then Debtor is directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B). The proposed confirmation order must include the language required by LBR 3020-1(b) (the first two paragraphs).

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement (dkt. 104, 105)*: see above.

(c) Post-confirmation status conference if Plan is confirmed: 11/12/19 at 1:00 p.m. Status report due 10/29/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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Tuesday, August 6, 2019

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1:00 PM

CONT...

Patricia Ann Theus

Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/2/19:

Appearances are not required.

(1) Current issues

(a) Third Amended Disclosure Statement (dkt. 104) and Plan (dkt. 105); and recent supporting documents (dkt. 106, 107)

The tentative ruling is to approve the Disclosure Statement on an interim basis and direct Debtor, no later than 7/3/19 at noon, to lodge a proposed order (using the required form) setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan at the same time as the continued status conference (see below) (that hearing includes a slightly shortened time for notice, per Rule 9006, Fed. R. Bankr. P.). The tentative ruling is that, although the changes to the Plan arguably are all positive from the viewpoint of all creditors, and although the proposed payment is 100%, nevertheless the terms of the Disclosure Statement and Plan have been amended enough that re-solicitation of votes is required.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement (dkt. 104, 105)*: see above.

(c) Continued status conference: 8/6/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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Hearing Room 1545

1:00 PM

CONT... Patricia Ann Theus

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #9, March 2019, dkt. 94)

At the 4/2/19 hearing, Debtor's counsel informed this Court that Debtor actually was postpetition current with secured creditors despite MOR #6, #7, and #8 reflecting 3 missed payments to FCI Lender and 3 missed payments to Rushmore Loan Management. Debtor's counsel stated that forthcoming amended MORs would reflect that Debtor is current. But only MOR #8 has been amended to reflect those changes (see dkt. 92) and MOR #9 still reflects that the mortgage payments have not been made (dkt. 94, p.7). What is Debtor's explanation?

(b) Second Amended Plan (dkt. 96) and Disclosure Statement (dkt.95)

At the 4/2/19 hearing on Debtor's First Amended Plan, this Court addressed several objections regarding the first amended plan (dkt. 76) and disclosure statement (dkt. 75). One issue was feasibility. Another was, as to Amir Hechter 24/42% Ocean 18, LLC 75.58% ("Hechter/Ocean") (Class 2B, listed as "Nationwide Servicing Center"), that the proposed interest rate (5%) and length of time for repayment (360 months/30 years) were insufficient. See tentative ruling for 4/2/19 (reproduced below). The tentative ruling is that Debtor's second amended plan does not adequately address these issues, and appears to have additional problems.

As for feasibility, the situation is worse because Debtor projects that she will have only \$17.31/mo. of positive cash flow (dkt. 95 Ex. C, at PDF p.6) when previously she projected \$42.14/mo. for the first 50 months (dkt. 75, Ex.C, at PDF p.6). As for Hechter/Ocean, the term remains unchanged at 30 years, and although Debtor has increased the interest rate from 5% to 5.5%, the tentative ruling is that this is still insufficient for all the reasons set forth in the tentative ruling for 4/2/19 (reproduced below). See dkt. 96 Ex. A, at PDF p.7.

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1:00 PM

CONT...

Patricia Ann Theus

Chapter 11

Note: As a side issue, the Plan has been confusingly amended in ways that turn out not to make a material difference. Specifically, Debtor has moved some debt repayment out of Exhibit A of the proposed Plan (which is supposed to show all payments to creditors) and into Exhibit I (which is supposed to show net income available to pay creditors).

Previously Debtor correctly listed payments to Wilmington Savings Fund ("Wilmington") on two separate lines of Exhibit A - once for the arrearage (\$402.95/mo. to be paid over 60 months) and once for the restructured ongoing payments (\$1187.10/mo. to be paid over a longer term). See 1st Am. Plan, dkt. 76, Ex.A. True, Debtor incorrectly listed the arrearage in Class 1A, which is supposed to be for a principal residence (*id.*), but that could have been readily fixed by listing Wilmington in two rows that were both designated as Class 2A: one row for arrears and one row for restructured ongoing payments. Instead Debtor has listed Wilmington in Exhibit A to be paid \$1197.97/mo. (2d Am. Plan, dkt. 96, Ex.A) and has also added a row in Exhibit I (2d from bottom) for \$402.95/mo. in "Contractual Arrears" (presumably paid to Wilmington).

The bottom line is that there is little net difference, but the documents fail to list all payments to creditors where they belong, in Exhibit A. The tentative ruling is that this does not matter because the Plan cannot be confirmed anyway.

Based on the foregoing and this Court's 4/2/19 tentative ruling, the tentative ruling is to dismiss or convert this case, because Debtor appears unable to propose a confirmable plan. See 11 U.S.C. 1112(b)(1)&(4)(J). The parties should be prepared to address whether dismissal or conversion is in the best interests of creditors.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: see above.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to set a continued status conference for 6/18/19 at 1:00 p.m. No written status report is required.

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CONT...

Patricia Ann Theus

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Finances (MOR #8, Feb. 2019, dkt. 85), and US Trustee Notice of Delinquency (dkt. 82)

At the 2/5/19 hearing, Debtor's counsel informed this Court that Debtor actually was postpetition current with secured creditors despite MOR #6 reflecting 3 missed payments to FCI Lender and 3 missed payments to Rushmore Loan Management. But MOR #8 still reflects that those payments are missing. Dkt. 85, p.7. What is Debtor's explanation?

Meanwhile, the United States Trustee ("UST") has filed a Notice of Delinquency (dkt. 82) stating that Debtor missed a quarterly payment of \$650 to the United States, and has not (as of that date) provided proof of current insurance (including a vehicle). These defaults call into question whether Debtor has sufficient cash flow to reorganize in this case.

(b) First Amended Plan (dkt. 76) and Disclosure Statement (dkt.75) - voting: acceptance by some, but not all, impaired classes (section 1129(a)(8))

As noted below, Class 1A has been combined with Class 2A, so there are three classes: Classes 2A (Wilmington), 2B (Nationwide/Hechter/Ocean), and 4A (general unsecured creditors). Debtor's Ballot Summary (dkt. 91) lists these three classes, but it includes two errors.

First, it asserts on page 1, item 6, that only one class (Class "2(a)") has

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1:00 PM

CONT...

Patricia Ann Theus

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accepted the Plan. But the ballots attached to the summary appear to show that two classes have accepted the Plan (Classes 2A and 4A).

Second, the Ballot Summary states on page 1, item 3, that cramdown (11 U.S.C. 1129(b)) is not requested. But 11 U.S.C. 1129(a)(8) requires acceptance by all impaired classes, and the only exception is cramdown. See 11 U.S.C. 1129(b) ("if all of the applicable requirements of subsection (a) of this section other than paragraph (8) are met ..." then the Court can confirm such plan in certain circumstances). In other words, by no withdrawing the Plan and instead proceeding with this hearing, Debtors implicitly request cramdown, even though the Ballot Summary says otherwise.

Accordingly, this Court will examine both whether the Plan meets all the requirements of subsection "(a)" of section 1129 (other than paragraph "(8)") and whether it meets the requirements of subsection "(b)." In addition, this Court will examine whether the Disclosure Statement, which was only provisionally approved for purposes of soliciting votes, can be approved on a final basis as containing "adequate information" within the meaning of 11 U.S.C. 1125(a)&(b).

(c) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a) (11) feasibility

Debtor proposes a 100% dividend to all creditors. But Debtor's budget is very thin. See Disclosure Statement, Exhibits C & I (dkt. 75, at PDF pp.6 & 13). Even with minimal expenditures on items like food and housekeeping (\$550/mo.) and medical and dental expenses (\$50/mo.), Debtor projects that she will have only \$75.00 left at the end of the Effective Date and \$42.14/mo. left each month thereafter (increasing to \$358.70/mo. after the first 50 months).

But as noted above Debtor's finances appear to be unreliable. How can this Court find that Debtor's Plan is feasible (i) if Debtor is already behind on postpetition payments or alternatively (ii) if Debtor's reporting is so unreliable?

In addition, Debtors' cash flow has been made worse by their Court-approved stipulation to resolve an objection to confirmation and modify their Plan with Creditor Wilmington Savings Fund Society, FSB dba Christiana Trust ("Wilmington"). See dkt. 78 (limited obj.), dkt. 86 (stipulation), & dkt. 88 (order approving stip.). The Plan calls for payments to Wilmington of \$1,187.10/mo (Class 2A & Ex.E) plus another \$402.95/mo. for the arrears

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(originally Class 1A, but now included in Class 2A per the stipulation, dkt. 86, p.3, para."1"), for a total of \$1,590.05. The stipulation calls for slightly more: (i) payments of \$1,119.61/mo. (amortizing payments of principal and interest) + (ii) \$255.50/mo. estimated escrow payments (which do not appear to be accounted for in Debtors' budget, dkt. 75, Ex.I) + (iii) \$402.95/mo. to pay arrears, for a total of \$1,778.06 (which is \$188.01/mo. more than contemplated in the Plan: \$1,778.06 - \$1,590.05 = \$188.01).

A feasibility objection has been raised (dkt. 83) by creditor(s) Amir Hechter 24/42% Ocean 18, LLC 75.58% ("Hechter/Ocean") (Class 2B, listed as "Nationwide Servicing Center" in the Plan (dkt. 76, p.7). Based on the foregoing analysis, the tentative ruling is to sustain that objection.

(d) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a)(7) "best interests of creditors"

Hechter/Ocean objects that the Plan does not meet the "best interests of creditors" test, which requires that each creditor receive property of a value, "as of the effective date of the plan, that is not less than the amount that such [creditor would receive] if the debtor were liquidated under chapter 7 of this title on such date." 11 U.S.C. 1129(a)(7)(A)(ii). The value of Debtor's promise of cash payments over time is addressed below.

(e) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(a)(3) "good faith"

Hechter/Ocean objects that its loan matured seven years ago, that it negotiated a second mortgage loan based on Debtor's credit worthiness, property value, etc. at the time when the loan was made, and

[t]o arbitrarily extend the term of a loan secured by property from which the Debtor is collecting rents, and using the rental income for payment to other creditors, while forcing this creditor to wait 30 additional years to recover its full investment, puts the Debtor's good faith in question. [Dkt. 83, p.5:24-26]

On the one hand, there is no inherent lack of good faith in proposing to pay debts over time, even if those debts have already matured. To the contrary, for all creditors - regardless whether they are an unsecured tort victim, an unsecured trade vendor, a secured creditor with a fully matured loan, or a secured creditor with a loan that has just begun - the Bankruptcy Code contemplates that typically they will be paid over time, so as to

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maximize a debtor's ability to pay all creditors.

On the other hand, the tentative ruling is that Hechter/Ocean is correct that there are limits to this ability to pay over time. Debtor's good faith in proposing the Plan's treatment of Hechter/Ocean (Class 2B) is intertwined with whether that class will receive an appropriate interest rate to compensate it for all risks, including the increased risk from a long (360 month) term of repayments. Those issues of the appropriate interest rate and term are addressed below.

(f) Plan (dkt. 76) and Disclosure Statement (dkt.75) - other requirements of section 1129(a)

The tentative ruling is that the remaining requirements of section 1129(a) are either satisfied or irrelevant. For example, the requirements in paragraph "(9)" for treatment of tax claims appear to be satisfied by Debtor's use of this Court's form Plan and exhibits, which provide for payment of tax claims over a shorter period than other creditors in compliance with that paragraph of section 1129(a).

(g) Plan (dkt. 76) and Disclosure Statement (dkt.75) - section 1129(b) "cramdown"

Under 11 U.S.C. 1129(b) this Court "shall" confirm the Plan if it satisfies all the requirements of subsection "(a)" except for paragraph "(8)" (acceptance by all impaired classes) and "if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." The "fair and equitable" requirement includes, but is not limited to, the requirements of paragraph "(2)" of section 1129(b), which are addressed below.

Hechter/Ocean objects that the Plan does not provide the "indubitable equivalent" of its claim. The tentative ruling is to overrule that objection, because the "indubitable equivalent" is just one of three alternative treatments: (i) retaining the creditor's lien and receiving "deferred cash payments" with a present value of the lien's present value (what the Plan proposes) (11 U.S.C. 1129(b)(2)(A)(i)), (ii) a sale, subject to credit bidding rights (1129(b)(2)(A)(ii)), "or" (iii) the "indubitable equivalent" of the creditor's claim (1129(b)(2)(A)(iii)).

But that leads to another objection raised by Hechter/Ocean: that the Plan does not provide cash payments with a present value equal to its lien's

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present value. 11 U.S.C. 1129(b)(2)(A)(i). Hechter/Ocean argues that "this Court should require an interest rate of 7.75% and a shorter, more reasonable term." Dkt. 83, p.4:20-21.

Hechter/Ocean uses the "formula" approach that was used by the Supreme Court for small-value collateral (a used truck) in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). That formula is the prime rate plus 1% to 3% depending on the risk factors.

It is an open question whether the Supreme Court intended for the formula approach to be used in all cases. The Posted procedures of Judge Bason (available at www.cacb.uscourts.gov) include the following:

§§ 506(b), 1129(b), 1325: "cramdown" interest rates. Judge Bason has expressed the view in various cases that when dealing with relatively small dollar amounts (for which the cost of presenting expert testimony as to interest rates would be prohibitive) the analysis in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004), is appropriate, and conversely when dealing with larger dollar amounts the *Till* analysis probably is not appropriate, and one acceptable method for experts to opine as to the appropriate interest rate is the method described in *In re Boulders on the River, Inc.*, 164 B.R. 99 (9th Cir. BAP 1994); see *In re N. Valley Mall, LLC*, 432 B.R. 825 (Bankr. C.D. Cal. 2010) (discussing continued viability of *Boulders on the River*).

The question is whether, in the facts and circumstances of this case, this Court should apply the simpler analysis in *Till* or a more complex analysis such as the one in *Boulders on the River/N. Valley Mall*. The tentative ruling is to use the *Till* analysis.

Applying *Till*, Hechter/Ocean asserts that the "current prime rate is 5.5%" and "[t]herefore a fixed rate of 6.5% to 8.5% would be proper as the bankrupt Debtor is getting an 84% loan to value ['LTV'] loan: this rate would be unavailable to a borrower with a history of defaults with even a 20% loan to value loan in today's market." Dkt. 83, p.5:10-14. As for the proposed term of repayment under the Plan (360 months), which is intertwined with the appropriate interest rate and is also an independent issue, Hechter/Ocean argues:

[T]he loan fully matured on December 28, 2011, more than seven years prior to the expected effective date of the plan. The Debtor proposes that the claim be paid over a new term of 360 months

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from the effective date. That is adding 30 years to a loan that matured more than seven years ago. Such treatment is patently unfair to this Secured Creditor, who negotiated a second mortgage loan based on the Debtor's credit worthiness, property value, etc. [Dkt. 83, p.5:19-23]

The tentative ruling is that, before this Court could fully assess the appropriate interest rate and term of any proposed repayment to Hechter/Ocean, this Court would need more evidence. But the tentative ruling is that, based on the evidence that is already in the record, the current proposed Plan's treatment of this claim is insufficient, and therefore the Plan cannot be confirmed.

Specifically, the additional evidence that would need to be presented would include support for Hechter/Ocean's assertion that the current prime rate is 5.5%, and evidence bearing on the risk factors, including whether there are analogous market rates for comparable debt (second liens, with a comparable LTV and comparable duration). See *also Till*, 541 U.S. 465, 484 (majority noting four components of risk cited by dissent: "(1) the probability of plan failure; (2) the rate of collateral depreciation; (3) the liquidity of the collateral market; and (4) the administrative expenses of enforcement").

(h) Conclusion as to Debtor's finances, and proposed Plan (dkt. 76) and Disclosure Statement (dkt.75)

The tentative ruling is that the cash flow evidence does not support the projections in Debtors' Disclosure Statement, so it cannot be approved on a final basis. In addition, the tentative ruling is that the Plan cannot be confirmed because Debtors have not established feasibility (1129(a)(11)).

The parties would have to present more evidence before this Court could determine the specific interest rate to provide present value (for purposes of 1129(b)(2)(A)(i), 1129(a)(3), and 1129(a)(7)) and whether the proposed term is too long to be "fair and equitable" to Hechter/Ocean (1129(b)(1)). But the tentative ruling is that (i) the combination of the currently proposed interest rate and term are insufficient to provide present value and (ii) this Court need not reach the issue of what exact interest rate and term would be necessary to provide present value because the feasibility issue is dispositive.

(i) Future proceedings / disposition of this case

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Based on the foregoing tentative rulings, the parties should be prepared to address whether this case should be dismissed or converted. One alternative might be for Debtor to abandon the property secured by the lien of Hechter/Ocean. Another alternative might be if Debtors have any other, more feasible strategy to reorganize their finances, including any good faith grounds to object to the Hechter/Ocean claim, and whether that would reduce their obligations enough so that they could propose a feasible plan. But it might be too late to propose such a strategy given the duration of this case, and the lack of evidence that Debtor's finances are improving.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: see above.

(c) Continued status conference: If this case is not dismissed or converted, the tentative ruling is to set a continued status conference for 5/7/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Finances (MOR#6, Dec. 2018, dkt. 72)

Debtor reports having lost money during this month and having missed 3 payments amounting to \$3,510 to FCI Lender (*but see* APO, dkt. 70), 3

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payments amounting to \$5,334.18 to Rushmore Loan Mgmt (dkt.72, p.7), and quarterly UST fees of \$325 (*id.*, p.9). Debtor also reports that vehicle insurance was only \$25,000 (does that comply with legal requirements?) and expired on 12/22/18. *Id.*, p.7.

What caused these losses and missed payments? How can Debtor afford to continue in this chapter 11 bankruptcy case?

(b) Plan (dkt. 74), Disclosure Statement (dkt. 73), and order setting hearing re same (dkt. 63)

The tentative ruling is to reschedule the combined hearing on final approval of the Disclosure Statement and confirmation of the Plan from 3/5/19 to 4/2/19 at 1:00 p.m. for two reasons. First, as noted above, Debtor's finances are problematic, and perhaps additional time will enable Debtor to establish a better track record and meet the feasibility requirement of 11 U.S.C. 1129(a)(11).

Second, contrary to the oral ruling at the last status conference, Debtor did not lodge this Court's form of order (posted at www.cacb.uscourts.gov, under Judge Bason's portion of the web site) setting a combined hearing, which would have directed Debtor to provide notice to creditors of the 3/5/19 hearing (and associated deadlines) in sufficient time to comply with the applicable rules. (Debtor's counsel apparently misunderstood and lodged a different order that included the 3/5/19 hearing along with other matters, which this Court signed without recognizing the error, dkt. 63.)

The tentative ruling is to set a deadline of 2/8/19 for Debtor to lodge the correct form of order and file a revised Disclosure Statement and revised Plan that list the revised 4/2/19 hearing date in the caption, and that include a revised form of ballot (dkt. 74, Appendix "1") that states "The Court has provisionally approved" the Disclosure Statement instead of "The Court has approved" (Emphasis added.)

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: see above.

(c) Continued status conference: 4/2/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 1/8/19:

Continue as set forth below. Appearances are not required on 1/8/19.

(1) Current issues.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Report (dkt. 67). This Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: file by 1/18/19 (see dkt. 63) using the forms required by Judge Bason and lodge a proposed order authorizing service of those documents and setting a combined hearing on final approval of the disclosure statement and confirmation of the plan (DO NOT SERVE yet, except on the U.S. Trustee - this Court will review the filed documents and then either issue the proposed order or establish other procedures).

(c) Continued status conference: 2/5/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor's September Monthly Operating Report (dkt. 50), lists a total of \$2,900 for "personal expenses." What are these expenses?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/8/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/16/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. Debtor still has not lodged interim or final orders approving the use of cash collateral, or a final order approving her budget. Why not?

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/27/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 42) and the other filed documents in this case.

(a) Motion of U.S. Trustee ("UST") to dismiss or convert (dkt. 21). The debtor claims to have come into compliance (dkt. 41). Does the UST have any outstanding compliance issues?

(b) Budget motion (dkt. 15) and supplemental declaration of non-debtor spouse Jose M. Juarez (dkt. 37). Grant on a final basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) Cash collateral motion (dkt. 14, 16). The adopted tentative ruling for the 8/14/18 hearing (reproduced at calendar no. 7, 9/18/18 at 1:00 p.m.) directed the debtor to file an order granting the motion on an interim basis. No such order has been lodged. Why not? Subject to a satisfactory answer, the tentative ruling is to grant the motion on a final basis, on the same terms as it was granted on an interim basis. *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/16/18 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 8/14/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. This Court has reviewed the debtor's filed status report (dkt. 17) and the other filed documents in this case.

(a) Budget motion (dkt. 15). Grant on an interim basis, with a final hearing concurrent with the continued status conference (see below), and a deadline of 8/21/18 to file declaration(s) regarding the income of the debtor's spouse (see below). *Proposed order*: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Debtor's spouse's income. The debtor's bankruptcy Schedule I reports that the debtor's spouse is a self-employed construction contractor, but that the spouse only earns \$1,500/mo. in net income. Dkt. 1, at PDF p.32, line 8a. This Court takes judicial notice that there is considerable construction activity in this geographic area. Why is that income not higher?

In addition, there is no attached statement showing gross income, expenses, and the calculation of net income. That is contrary to the instructions for line 8a, and to this Court's order that for reporting purposes any spouse is to be treated as equivalent to the debtor (dkt. 6, para.3).

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(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/18/18 at 1:00 p.m., *brief* status report due 9/4/18.

*Warning: special procedures apply (see order setting initial status conference).

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Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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#3.00 Cont'd Status Conference re: Post Confirmation
fr. 5/31/16, 7/19/16, 9/13/16, 11/8/16, 1/10/17, 02/28/17,
4/11/17, 5/23/17, 6/20/17, 8/8/17, 8/15/17, 11/14/17,
02/13/18, 7/10/18, 9/18/18, 12/11/18, 5/7/19

Docket 6

Tentative Ruling:

Tentative Ruling for 8/6/19:

Continue to 8/20/19 at 1:00 p.m. to be heard in conjunction with the United States Trustee's Motion to Dismiss or Convert (dkt. 183). Appearances are not required on 8/6/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues. This Court has reviewed the docket. The parties should be prepared to address the status of the case and when it will be ready for a final decree.

(2) Deadlines/dates. Continue to 7/30/19 at 1:00 p.m. (no written status report required; and will go off calendar if a final decree has been issued before that time).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18 (same as for 9/18/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The docket does not reflect any activity. What is the status of this case, and when will it be ready for a final decree?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 7/10/18:

Continue as set forth below. Appearances are not required on 7/10/18.

(1) Current Issues. This Court has reviewed debtor's status report (dkt. 154, 156) and other relevant pleadings in this case. This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. Continue to 9/18/18 at 1:00 p.m. (no written status report required; and will go off calendar if a final decree has been issued before that time).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 2/13/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties should be prepared to address any issues appropriate for resolution at this post-confirmation status conference. The tentative ruling is to set a continued status conference for 7/10/18 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

Continue to 2/13/18 at 1:00 p.m. in view of the debtor's post-confirmation status report (dkt. 142). Appearances are not required on 11/14/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/15/17:

Appearances required. The debtor's counsel should be prepared to address the issues set forth below.

Proposed order: If this court is persuaded to adopt this tentative ruling, then counsel for the debtor is directed to serve and lodge proposed orders (a) approving the disclosure statement (dkt. 101) on a final basis and (b)

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confirming the plan (dkt. 102), all as amended by the stipulation with class 2A (dkt. 127, 128). Those proposed orders must be lodged via LOU within 7 days after the hearing date.

(1) Ballot Summary. The debtor's ballot summary (dkt. 131) appears to be inaccurate and internally inconsistent. Although the ballots and stipulation attached to the ballot summary show acceptance by 100% in both dollar amount and number of the claims actually voted or deemed to have been voted in classes 2A, 2B and 4A, and no vote by Class 2C, the ballot summary makes assertions that are not consistent with those ballots, namely:

(a) Cramdown: The ballot summary asserts that the debtor is not requesting cramdown (dkt. 131, item 3), even though the lack of an affirmative vote in class 2C means that the debtor does not satisfy 11 U.S.C. 1129(a)(8) and therefore must seek cramdown under 11 U.S.C. 1129(b);

(b) Accepting classes: The ballot summary asserts that only class 4A has voted to accept the plan (dkt. 131, item 6), even though classes 2A and 2B have also accepted the plan; and

(c) Page 2 of the Ballot Summary: The chart on page 2 of the ballot summary (dkt. 131, p.2, top line of chart) fails to show that Class 2A has accepted the plan by 100% in number of claims deemed to have been voted (not just 100% in amount). In addition, it would have been helpful if the ballot summary's "Comments" following that chart had explained that (i) Portfolio Recovery Associates is Class 2C (even though it is listed as LA County Tax Collector in the Plan), (ii) U.S. Bank is Class 2A (even though it is listed as Wells Fargo in the Plan), and (iii) Class 2A is deemed to have voted in favor of the plan under its court-approved stipulation, even though it did not actually cast a ballot. (If any of the foregoing is incorrect then counsel for the debtor must correct those issues at the hearing.)

(2) Status report

The debtor's status report (dkt. 130) misleadingly asserts that this court's order (dkt. 106) previously approved the disclosure statement (dkt. 101), whereas in fact this court only granted preliminary approval for purposes of this combined hearing on whether to approve the disclosure statement (dkt. 101) and confirm the plan (dkt. 102).

(3) Confirmation. Notwithstanding the foregoing, it appears that the debtor's

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disclosure statement (dkt. 101) should be approved, and that the chapter 11 plan (dkt. 102), as amended by the debtor's stipulation with the holder of the class 2A claim (dkt. 127, 128), has met the requirements for confirmation under 11 U.S.C. 1129(a) & (b).

(4) Correction. This court notes that the tentative ruling for 6/20/17 (reproduced below) was in error in asserting that "[at] the status conference on 5/23/17 this court set a deadline of 6/6/17 to file an amended plan and disclosure statement." In fact, this court was persuaded at that status conference not to impose that deadline.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/20/17:

Continue to 8/8/17 at 1:00 p.m. (without the need for any written status report), but impose sanctions of \$200 on counsel for the debtor, for the reasons set forth below. Appearances are not required on 6/20/17.

At the status conference on 5/23/17 this court set a deadline of 6/6/17 to file an amended plan and disclosure statement. On 6/15/17, after this court had already prepared a tentative ruling for this status conference, counsel for the debtor filed a stipulation (dkt. 117) and lodged a proposed order for yet another continuance of the confirmation hearing. At no point did counsel telephone chambers to suggest that counsel expected or was attempting to arrange for such a continuance. Moreover, as set forth in the tentative rulings reproduced below, this case has a long history of missed deadlines, last minute filings, and deficient documents.

This court recognizes that to a large extent counsel cannot control delays by a debtor and debtor in possession, and not infrequently a debtor is simply incapable of meeting all of the debtor's obligations. Nevertheless, this court has noted that counsel of record in this case has a pattern, in this and other cases (*e.g.*, *In re Barragan*, 2:15-bk-29156-NB), of filing late and inadequate documents, and that pattern is not matched by the vast majority of other counsel who appear before this court. All of that strongly suggests that counsel bears some responsibility for those deficiencies, and that

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imposes substantial burdens on this court, the U.S. Trustee, and any other parties in interest who may be monitoring or involved in such bankruptcy cases. The tentative ruling is that this warrants sanctions under this court's inherent powers and 11 U.S.C. 105. Counsel is also cautioned that this court anticipates issuing similar or increased sanctions if this pattern continues in other cases in future.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/23/17:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The ballot summary was due 5/16/17 but was not filed until 5/22/17 at 4:12 p.m. In addition, it is internally inconsistent. What remedies are appropriate?

The plan (dkt. 102) has not been accepted by any class. This is the debtor's second bankruptcy case, and it has been pending for over a year. The debtor's lack of progress for that long a period of time suggests a willful delay. Should this court dismiss or convert this case? Should this court impose a bar against being a debtor in bankruptcy for the third time in a row?

(2) Deadlines/dates. This case was filed on 4/20/16. If this case is not dismissed or converted, the tentative ruling is to hold a continued status conference on 6/20/17 at 1:00 p.m. with a deadline of 6/6/17 to file (but NOT serve) yet another amended plan and disclosure statement.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/23/17:

This court anticipates posting a tentative ruling at a later time.

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Tentative Ruling for 4/11/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) UST compliance and adequate protection payments. What is the status?

(b) Plan (dkt. 101) and Disclosure Statement (dkt. 102). 4/14/17 deadline to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: See above.

(c) Continued status conference: 5/23/17 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 2/28/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) U.S. Trustee notice of non-compliance. Has the debtor cured the reporting delinquency noted by the U.S. Trustee regarding lack of insurance (dkt. 94)?

(b) Adequate protection payments. At the hearing on 1/10/17 counsel for the debtor assured this court that the debtor had cured the postpetition

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delinquency in adequate protection payments. But the monthly operating report for January 2017 (dkt. 95, filed 2/7/17, at p.4) continues to list 4 missed payments for a total of \$6,972 delinquency. What was the basis for counsel's misrepresentation to this court? Should this court require counsel and the debtor to testify on that issue, and on the prospects for future income, before this court can find that the plan is feasible (11 U.S.C. 1129(a)(11))? Should this misrepresentation have any other consequences?

(c) Plan (dkt. 82) and Disclosure Statement (dkt. 81). The debtor's ballot summary was due to be filed no later than 2/21/17 (dkt. 89). Instead the debtor's counsel has filed a declaration (dkt. 96) asserting that a ballot in favor of the plan has been received by class "6b," even though no such class is listed in the plan (see dkt. 82, Ex.A), and requesting more time to receive ballots from classes 2a and 2b, even though the deadline for ballots has passed. The parties should be prepared to address how best to proceed in these circumstances.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement (dkt. 82, 81): See above.

(c) Continued status conference: 4/11/17 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/10/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Payments to secured creditor Wells Fargo. The debtor's November

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2016 MOR reflects that the debtor has not made 4 monthly payments to secured creditor Wells Fargo. See dkt. 84, PDF p. 7. Is that accurate, or did the debtor intend to state that those payments were made?

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement (dkt. 82, 81): The tentative ruling is to set the following deadlines: 1/17/17 to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and to lodge Judge Bason's form of order authorizing service of the relevant documents and setting deadlines; and 2/28/17 at 1:00 p.m. for the combined hearing on approval of the Disclosure Statement and confirmation of the Plan (with the court to set typical deadlines for objections etc.).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 2/28/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/8/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Amended Chapter 11 Plan and Disclosure Statement (dkt. 74, 75).

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There are issues with these documents which this Bankruptcy Court will review orally at the hearing.

(b) Monthly operating reports. The debtor's court approved budget (dkt. 19) and the budget attached to her amended chapter 11 disclosure statement (dkt. 74, PDF p. 13) show various typical monthly expenses such as transportation costs, utilities, and food. The expenses included in her budgets submitted to this court are either not reflected in her MORs for August and September 2016 (dkt. 65 and 73, respectively) or are reflected, but in much smaller amounts than budgeted. Is the debtor reporting all of her monthly expenses in her MORs? If not, why not?

Additionally, the MORs appear to reflect that the debtor is receiving less than her budgeted monthly income (\$1,800/mo.) from her job as a real estate professional. In August 2016, the debtor reported receipts of \$970.01; in September 2016, receipts of \$1,000.

Based on the reporting in the debtor's two most recent MORs, this court is concerned that the debtor may not have sufficient disposable income with which to fund her proposed chapter 11 plan.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: Deadline of 12/6/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 1/10/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/13/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues

(a) Chapter 11 Plan and Disclosure Statement (dkt. 59, 58). There are numerous issues with these documents, which this Bankruptcy Court will review orally at the hearing.

(b) Orders on budget and cash collateral motions. On July 19, 2016, this court held continued hearings on the debtor's motion for use of cash collateral (dkt. 18) and budget motion (dkt. 19). The motions were granted on a final basis, and the court's adopted tentative ruling directed the debtor to lodge proposed orders on those motions within seven days of the hearing date. This court has reviewed the case docket and its pending lodged orders, and it appears no such orders have been lodged.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: Deadline of 10/11/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/19/16:

Appearances are not required on 7/19/16.

(1) Current issues.

(a) Cash collateral motion (dkt. 18). Grant on a final basis, on the same terms set forth in this court's order granting interim use of cash collateral (dkt. 37).

(b) Budget motion (dkt. 19). Grant on a final basis.

The debtor must lodge proposed orders on each of the foregoing motions

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within seven days.

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- (2) Deadlines/dates. This case was filed on 4/20/16
- (a) Bar date: Bar date: 7/29/16 (timely served, dkt. 39).
 - (b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
- Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).
- (c) Continued status conference: 9/13/16 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/31/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves

- (1) Current issues. This Court has reviewed the debtor's status report (dkt. 23).
- (a) Prior failed case. The debtor's prior case (no. 2:14-bk-14065-NB) was a chapter 13 case that was dismissed because of plan infeasibility due to the objections by Wells Fargo, and claims by the IRS, FTB, and L.A. County Tax Collector.
 - (b) Debtor's real property
 - (i) Inconsistent rental income amount. This Court notes that the debtor's amended schedule G reflects a monthly rental of \$2,200 (dkt. 13, p.10), which was originally listed as \$1,500 per month (dkt. 1,

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p.36). However, the debtor's original schedule I originally listed the debtor's net income from rental property as \$2,400 (dkt. 1, p.39). The debtor's amended schedule I now lists net income from rental property as \$2,200 (dkt. 13, p.12). Although the rental income now appears to be consistent at \$2,200, and schedule G reflects the same lessee, Smark Lyles, is this the correct amount?

(ii) Schedule I. Part 8.a. requires that the debtor attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.

(iii) Motion to Value. The debtor's status report indicates that the debtor intends to file a motion to value the real property. When does the debtor anticipate filing the motion to value?

(c) UST compliance. The United States Trustee has filed a motion to dismiss or convert (dkt. 24). Although the matter has been set for hearing on 6/21/16, the debtor should be prepared to address more generally, why this case in chapter 11 instead of chapter 13. It appears that the debtor is within the debt limits for chapter 13, and chapter 11 typically is far more expensive, so it seems doubtful that the debtor needs or can afford a chapter 11 case.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 23, p.4) but this Court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

(c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

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#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/2/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/6/19:

Continue as set forth below. Appearances are not required on 8/6/19.

(1) Current issues

This Court has reviewed the debtor's latest filed documents, including its Status Report (dkt. 43). The status report does not address item (1)(f) from the 7/2/19 tentative ruling (copied below), which raises concerns about possible conflicts of interest between Debtor's principal/landlord and Debtor's bankruptcy estate. Nevertheless, presumably, the leases can be addressed at future status conferences. Therefore this Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 6/1/19.

(a) Bar date: 9/6/19 (timely served 7/18/19) (dkt. 31, 32)

(b) Plan/Disclosure Statement*: TBD (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/20/19 at 1:00 p.m., No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 7/2/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

(a) Cash Collateral

Debtor's Chapter 11 Status Conference Report (dkt. 17, the "Status Report") asserts that "there is no cash that any entity can claim as its cash collateral." Dkt. 17 at 3. But Debtor's Schedule D lists two possible secured creditors: Bank of the West (the "Bank") - which Debtor "believes" has been paid, but apparently has not confirmed - and FM Marketing & Properties, LLC ("FM Marketing") - as to which Debtor "does not know" whether a UCC-1 was recorded or any termination statement was filed. Dkt. 15 at PDF p. 14-15.

How can Debtor be sure that the Bank and FM Marketing agree that any debts have been fully paid off, without verification from those creditors that they are not asserting an unpaid balance based on, e.g., loan initiation charges, alleged defaults, default interest, late charges, attorney fees, etc.? How can Debtor use cash, which might be subject to asserted liens, without filing and serving a motion for use of cash collateral? See 11 U.S.C. 363(c) (2). What due diligence has been undertaken to determine the foregoing issues, and whether or not there are recorded UCC liens against Debtor?

(b) Other "First Day" Motions

Debtor states that there are approximately 200 employees, including Debtor's principal, Sherif Antoon (dkt. 17 at 2) but Debtor has not filed a motion seeking authorization to pay prepetition payroll. Why not?

Debtor states that it has not filed a budget motion (dkt. 17, p.3) because Debtor "is not an individual" but the posted Procedures of Judge Bason require budget motions, without any exemption for non-individuals. In the past, Judge Bason has ruled that a budget motion is necessary because under 11 U.S.C. 363(b)&(c) only "ordinary course" transactions do not require Court approval, and debtors not infrequently have unduly expansive concepts of what is "ordinary course."

(c) IRS Debt

The Status Report notes that the IRS may have a claim of \$140,000 against Debtor and that Debtor intends to enter into a plan treatment stipulation with the IRS. Dkt. 17 at 2. But Debtor's Schedules state that the

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IRS has a \$0.00 claim and that the IRS is included in the Schedules "for notification purposes and as a precaution only." Dkt. 15 at PDF p. 17. Why was the IRS debt not disclosed in Debtor's Schedules?

(d) False Corporate Ownership Statement

Debtor's Principal, Sherif Antoon, declares that there are no "entities" that directly or indirectly own 10% or more of any class of equity interests in Debtor. Dkt.1, p.17. But the term "entity" includes any "person" (11 U.S.C. 101(15)) and the term "person" includes any individual (11 U.S.C. 101(41)). Does Mr. Antoon own 10% or more of the equity interests of Debtor?

(e) Monthly Operating Reports for 4JFarid

The Status Report notes that Mr. Antoon is the principal of 4JFarid, LLC. Dkt. 17 at 7. 4JFarid is Debtor's landlord on three separate leases. *Id.*

This Court reminds Debtor and its Principal that "for *all* reporting purposes - including Monthly Operating Reports ("MORs"), disclosure statements, etc. - Debtor must disclose *all income, expenses, assets, and liabilities of (a) affiliated businesses and (b) any spouse.*" Dkt. 3 at 2 (emphasis added). Based on this Court's review of Debtor's schedules, Debtor has not disclosed the income, expenses, assets, and liabilities of 4JFarid.

(f) Assumption of Leases

Debtor has three unexpired leases with landlord 4JFarid. Dkt. 15 at PDF p. 27. Debtor states that it intends to assume these three leases. Dkt. 17 at 7. Assumption requires curing of any default (as well as compensating for any pecuniary losses, and providing adequate assurance of future performance under the leases). 11 U.S.C. 365(b). Debtor's bankruptcy schedules list \$180,000 in unpaid rent owed to landlord 4JFarid. Dkt. 15 at PDF p. 17.

This Court is concerned that Mr. Antoon, who is the principal of both Debtor and landlord 4JFarid (dkt. 17 at 7) proposes to assume these leases, at great expense, rather than move to a new location. Debtor is directed to address why it would not be less expensive and in the best interests of creditors to lease new premises.

(2) Deadlines/dates. This case was filed on 6/1/19.

(a) Bar date: 9/6/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on

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CONT...

Unified Protective Services, Inc. and Delano Fields

Chapter 11

the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/6/19 at 1:00 p.m., *brief* status report due 7/30/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19,
04/30/19, 06/04/19

Docket 7

Tentative Ruling:

Tentative Ruling for 8/6/19:

Appearances required.

(1) Current Issues

(a) United States Trustee's Fees

The June Monthly Operating Report (dkt. 96, "June MOR") indicates that Debtors still owe \$650.00 in United States Trustee's fees for the quarter ending June 30, 2019. Dkt. 96 at 6. Have Debtors paid those fees?

(b) Select Portfolio Servicing Post-Petition Payments

The June MOR indicates that Debtors have not made any post-petition payments to Select Portfolio Servicing. Dkt. 96 at 4. Why not?

(c) Status of Valuation Motion or Settlement of Mazakoda's Inc.'s

Claim

Debtors have stated that they intend to file a valuation motion and avoid Mazakoda's judgment lien or enter into a claim treatment stipulation. Dkt. 96 at 8. Debtors have not filed a valuation motion or a claim treatment stipulation.

The parties should be prepared to explain the status of dealing with Mazakoda's claim as this case has been pending since October 2018 and a chapter 11 plan has not been filed.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 9/24/19 at 1:00 p.m. Brief status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 6/4/19:

Appearances are not required on 6/4/19.

(1) Current issues

The Court has no issues to raise *sua sponte*.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/6/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances are not required on 4/30/19.

(1) Current issues

(a) Fee Application - Berger (dkt. 75)

Grant in the amount of \$24,777.50 in fees and \$680.61 in expenses,

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for a total of \$25,458.11, and authorize and direct Debtors to pay the balance owed after application of the retainer balance.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

This status conference has been set pursuant to this Court's order (dkt. 6) and notice thereof (dkt. 14), pursuant to which status conferences are held concurrent with any other calendared proceeding. Appearances are not required on 4/9/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Grant, with an extension of the deadline for Mazakoda Inc to file a complaint objecting to dischargeability to 4/30/19. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). At the hearing on 3/26/19, counsel for Mazakoda appeared and informed this Court that it opposed the tentative ruling denying the motion for lack of prosecution, and that it had just received

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the recording/transcript on 3/22/19. Although Debtors' counsel was not notified of Mazakoda's intent to contest the tentative ruling (as required by the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov), this Court was persuaded to continue this matter, as permissible under those same procedures. Mazakoda has now supplemented the Motion (dkt. 74), and based on that supplement the tentative ruling is that it is appropriate to extend the deadline.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Deny for lack of prosecution. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). It has now had time to do so, and has not supplemented its motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling

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for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Continue as set forth below. Appearances are not required on 2/26/19.

(1) Current issues

Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Until the transcript is received for the meeting of creditors (11 U.S.C. 341(a)), it is difficult to assess the issues raised in the opposition (dkt. 63) and reply (dkt. 64). The tentative ruling is to continue this hearing to the same time as the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:
Appearances required.

(1) Current issues

(a) Mazakoda, Inc's Objections to Debtor's Claimed Exemptions (dkt. 45)

The tentative ruling is to set the Objection to Exemptions for hearing on 2/26/19 at 1:00 p.m. (to be concurrent with the motion to extend the deadline to object to Debtors' discharge) with the usual deadlines for any opposition and reply.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:
Appearances required by counsel for the debtor and by the debtor(s)

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2:19-14137 Zeta Graff

Chapter 11

#6.00 Hrg re: Motion to withdraw as debtor's
bankruptcy counsel

Docket 84

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 9,
8/6/19 at 1:00 p.m.)

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

Movant(s):

Zeta Graff

Represented By
Michael Jay Berger
Michael Jay Berger
Michael Jay Berger

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2:19-14137 Zeta Graff

Chapter 11

#7.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 06/04/19. 7/2/19

Docket 23

Tentative Ruling:

Tentative Ruling for 8/6/19:

Please see the tentative ruling for the status conference (calendar no. 9,
8/6/19 at 1:00 p.m.)

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the status conference (calendar no. 8,
7/2/19 at 1:00 p.m.)

Tentative Ruling for 6/4/19:

Please see tentative ruling in status conference (calendar no. 10, 6/4/19 at
1:00 p.m.)

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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2:19-14137 Zeta Graff

Chapter 11

#8.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115 fr. 7/2/19

Docket 67

Tentative Ruling:

Tentative Ruling for 8/6/19:

Please see the tentative ruling for the status conference (calendar no. 9, 8/6/19 at 1:00 p.m.)

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the status conference (calendar no. 8, 7/2/19 at 1:00 p.m.)

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

Movant(s):

Zeta Graff

Represented By
Michael Jay Berger
Michael Jay Berger
Michael Jay Berger

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2:19-14137 Zeta Graff

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 5/7/19, 06/04/19, 7/2/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/6/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Current issues

(a) United States Trustee ("UST") Motion to Dismiss or Convert ("MTD," dkt. 23, 43), and responses by Olivia Vaatete (dkt. 88) and Ramsaur Law Office (dkt. 89)

The tentative ruling is to convert Debtor's case to Chapter 7.

In relevant part the statute (11 U.S.C. 1112(b)(4)) provides:

For purposes of this subsection, the term "cause" includes -
(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;
(B) gross mismanagement of the estate;

...

(E) failure to comply with an order of the court;

... [11 U.S.C. 1112(c)(4)]

(i) Substantial or continuing loss

Debtor's June Monthly Operating Report ("MOR") (dkt. 87) reflects continuing losses, on top of the substantial losses noted in prior tentative rulings (reproduced below).

(ii) Gross mismanagement

Critical to any intelligent management of a business is sufficient recordkeeping and analysis to figure out how the business is performing financially. Debtor's failure to provide such records and analysis, while making very substantial expenditures (see latest MOR (dkt. 87) and prior tentative rulings reproduced below) speaks volumes about the gross mismanagement of this bankruptcy estate.

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(iii) Failure to comply with order

Despite this Court's oral ruling at the hearing on 7/2/19, imposing a deadline of 7/23/19 to file certain documents, Debtor has not done so. Those documents are (1) declarations explaining how the expenses listed in Debtor's MORs are ordinary course, and (2) amended MORs with clear lines between business and personal expenses.

(iv) Other cause

The statutory examples of "cause" for conversion or dismissal are not exclusive. See 11 U.S.C. 102(3). Other "cause" is based on all of the other concerns this Court has had from the inception of this case (see prior tentative rulings, reproduced below).

It appears that conversion is in the best interests of creditors. The statute provides:

... on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate. [1112(b)(1), emphasis added]

It appears that a chapter 7 trustee might be able to sell Debtor's home, with or without avoidance of a lien that parties have questioned, and realize sufficient funds to pay a meaningful dividend to unsecured creditors, or even pay them in full. While the UST originally supported dismissal with a 180-day bar (dkt. 23 at PDF p.6), creditor Olivia Vaatete has provided this Court with an email from the UST's counsel that indicates the UST believes conversion to chapter 7 would be in the best interest of all general unsecured creditors (see dkt. 88, ex. 1). Moreover, she and another of Debtor's creditors filed limited oppositions to the UST's MTD, indicating that their preference was for conversion rather than dismissal. See dkt. 88 & 89.

Proposed order: The UST is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Amended budget motion ("Budget Motion," dkt. 67), and amended

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monthly operating report for April, 2019 ("MOR," dkt. 63), MOR for May, 2019 (dkt. 75), MOR for June, 2019 (dkt. 87)

The tentative ruling is to deny the Budget Motion as moot since the case will be converted to Chapter 7. *This Court will prepare the order* after the hearing.

(c) Motion of Berger law office to withdraw as Debtor's bankruptcy counsel (dkt. 84)

Grant.

Proposed order: Mr. Berger is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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Tentative Ruling for 7/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Sale of home

What is Debtor's progress regarding sale of the home?

(b) Michael Jay Berger Fee Application (dkt. 64)

Allow \$27,908.00 in fees and \$416.24 in expenses, for a total of \$28,324.24.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) United States Trustee ("UST") Motion to Dismiss ("MTD," dkt. 23,

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43)

If this case is not converted or dismissed (see below), issue a continuing compliance order because the May monthly operating report is at least 9 days past due (that is the delay as of the preparation of this tentative ruling). The parties should be prepared to address any other issues and remedies relative to the MTD.

(d) Amended budget motion ("Budget Motion," dkt. 67), and amended monthly operating report for April, 2019 ("MOR," dkt. 63), and MOR for May, 2019 (dkt. 75)

At the commencement of this case this Court issued an order providing, in part:

3. Affiliates. For all reporting purposes – including Monthly Operating Reports (“MORs”), disclosure statements, etc. – Debtor must disclose all income, expenses, assets, and liabilities of (a) affiliated businesses and (b) any spouse. See §§ 101(2) & (9); Rule 2015.3; *SBE v. Woo*, 82 Cal. App.4th 481, 483-84 (2000). **Prior authorization of this Court is required for Debtor to cause any affiliate to act out of the ordinary course of that affiliate’s business** (§ 363(c)). [Dkt. 7, p.2, emphasis added.]

This order was served on Debtor personally, as well as her attorneys. See dkt. 11. Debtor appears to be in violation of this order, as well as her responsibilities under the Bankruptcy Code.

(i) Huge reported expenditures to date

Debtor's postpetition spending is troubling. Debtor's Amended April MOR reflects that Debtor spent \$1,000 on one "Business dinner" for a prospective client, \$181.66 for another "Business Lunch," \$974.55 for a present for a client, \$136.98 for another lunch that is not described as a business lunch (so apparently it was Debtor's treat to herself?), \$529.45 for food from "Great Alaska Seafood" (again, not described as a business expense), and numerous other expenses that appear on their face to be extravagant and of dubious business benefit. Dkt. 63 at PDF p.5. Similarly, the May MOR includes a \$466.00 "Gift for client," \$1,000 for "Home Maintenance" (the nature of which is not disclosed), and a manicure and other items that are unusual for a debtor in bankruptcy.

Even if the gifts, personal grooming, and meal are truly business

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expenses (not personal treats), what evidence does Debtor have that spending such sums is in the "ordinary course" of the financial affairs of debtor's business, Zeniba LLC, such that causing the business to spend such amounts was within the ordinary course of Debtor's own business affairs (see 11 U.S.C. 363(c))? Even if such expenditures were typical of the prepetition past, how are they appropriate postpetition, given Debtor's duties as a trustee for the benefit of creditors?

Debtor's belated declaration (dkt. 74) vaguely explains that "I occasionally buy 'thank you' gifts for my clients and take them out for lunch and dinner at expensive restaurants" which is "how I market my business to get new clients." *Id.*, para.6. That is all very well but what evidence is there that, in the past, such expenditures have in fact reliably generated profits that exceed expenses? Can that be evidenced by, for example, monthly profit and loss statements for the last 36 months?

(ii) Projected future returns

Debtor's projected returns on such expenditures appear to be uncertain at best. Based on Debtor's budget, she caused Zeniba LLC to spend well over \$100,000 in March, April, and May of 2019. Dkt. 67, Ex.A, at PDF p.10. The May MOR lists a gross receipts of exactly \$98,000 (dkt. 75, p.4, item 4) - an oddly round number - and also lists \$28,075.47 in unpaid adequate protection payments to the two most senior liens. Dkt. 75, p.7.

First, where did the money come from for expenditures in April? The petition date is 4/11/19 so that money should have been reflected in the April MOR, either as cash or as accounts receivable or another source of such funds, but on a quick review this Court saw no such disclosure. That MOR lists a \$0 starting balance and fails to include the normal balance sheet and profit and loss statement for a business. Dkt. 63, p.1 In addition, the attached bank account statements are heavily redacted and apparently incomplete.

Second, spending \$100,000 in the first three months of this case is an astounding level of monthly expenditure in comparison to Debtor's assets and liabilities. Those funds appear to have been sufficient to have paid a substantial dividend to unsecured claims, but unless Debtor can generate consistent profits those funds appear to be at risk. The latest (alleged) profit of \$98,000 might (or might not) reflect a net loss in Debtor's overall finances since the petition date (it is difficult, if not impossible, to tell from Debtor's

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partial disclosures).

Third, although conceivably Debtor's expenditures will result in future income, Debtor projects only modest and very uneven returns. Debtor projects net monthly income over a nine month period that gyrates from negative \$5,405.10 in April to \$23,289.29 in May, up to \$77,784.3 in June, and back down to \$284.13 in July. Dkt. 67, Ex.A, at PDF p.10. How can creditors, the UST, and this Court have reasonable confidence that Debtor's expenditures will generate reliable returns above what Debtor has caused Zeniba LLC to spend?

Debtor herself appears to recognize that such expenditures are inappropriate. For example, her budget projects that she will cause Zeniba LLC to cease making any expenditures for "Business Gifts to Clients" - if such gifts had a history of reliably generating profits, why would she not seek to continue them? See dkt. 67, Ex.A, at PDF p.10.

(iii) Conclusion as to budget issues

Debtor appears to be in violation of this Court's above-quoted order, section 363(b), and her duties as trustee for the benefit of creditors. Moreover, those violations appear to be risking, if not actually causing, depletion of assets that could be used to pay creditors. The parties should be prepared to address appropriate remedies.

If this Court does not convert or dismiss this case under 11 U.S.C. 1112(b), this Court will hold a continued hearing on the Budget Motion concurrent with the continued status conference as set forth below. Meanwhile, the parties are directed to address what to do about the proposed budget expenditures until that continued hearing: e.g., should this Court prohibit Debtor from making certain types of expenditures? should this Court set a deadline for Debtor to file her declaration authenticating 36 months of prior profit and loss statements?

(2) Deadlines/dates. This case was filed on 4/11/19.

(a) Bar date: 7/23/19 (timely served 5/9/19) (dkt. 29, 31)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference (if this case is not converted or dismissed): 8/6/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status

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Tentative Ruling for 6/4/19:

Appearances required.

(1) Current issues

(a) Sale of home

What is Debtor's progress regarding sale of the home?

(b) Motion for DIP Financing for insurance premium financing (dkt. 39, 42, 48)

Grant, subject to (a) a satisfactory explanation whether, in view of the objection by MTGLQ Investors, LP; Wells Fargo Bank, N.A. as servicer ("Wells Fargo," dkt. 55), the force-placed insurance would render the proposed Debtor's insurance duplicative (or if, on the other hand, whether it is feasible and sensible for Debtor to obtain insurance and for Wells Fargo to obtain a partial refund of its force-placed insurance); (b) naming Wells Fargo is an additional insured; and (c) the conditions set forth in the conditional opposition of Pensco Trust Co. fbo Elizabeth S. Boren IRA ("Pensco") (dkt. 53) (being named as additional insured; providing a copy of the proposed insurance agreement; reserving its rights to maintain force-placed insurance; and reserving other rights).

Proposed order: If this Court is persuaded to grant the motion, then Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) United States Trustee ("UST") Motion to Dismiss ("MTD," dkt. 23, 43)

Debtor appears to have remedied some issues raised in the MTD and

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to be in the process of attempting to remedy other issues. See dkt. 51 (status report) and dkt. 36 (MOR#1), 41 (Opp. to MTD), 42 (see below), 46 (employment of counsel). What is the UST's position on these issues? Should this hearing on the MTD be continued to the same time as the continued status conference (see below)?

(d) Budget motion (dkt. 34), amended Bankruptcy Schedules I&J (dkt. 33), and Monthly Operating Report ("MOR," dkt. 36)

This Court is troubled by Debtor's vague and inconsistent information about her income and expenditures.

(i) Cash transactions

Debtor's MOR (dkt. 36, p.5) reports over \$1300 in cash "For Business." The tentative ruling is that this is insufficient reporting, and that (A) Debtor must amend her MOR no later than 6/7/19 to account for her cash expenditures to the maximum extent possible based on her declaration under penalty of perjury, and (B) in any future MOR she must provide a complete cash accounting.

(ii) Business net income of \$12,500/mo. or \$10,000/mo.?

Debtor's amended Bankruptcy Schedules I and J (dkt. 33) and her budget motion (dkt. 34, Ex. A&B) are ambiguous and inconsistent. Debtor reports income of \$12,500/mo. from her jewelry business, Zeniba LLC (line 8a of Schedule I) but attaches a table showing \$10,000/mo. of net income (dkt. 34 at PDF p.9). That table has an asterisk next to the business name, but no corresponding note.

(iii) Very round numbers for historical amounts, and no future projections

Although the table was filed on 5/14/19 it uses only very round numbers, not actual figures, for the column entitled "3/1/19." (The other months show \$0 income or expenditures.) Why is it not possible for Debtor to provide actual dollar amounts for March, 2019, given that the motion was filed over a month and a half after the end of that month? Why does the table not include future projections?

(iv) Attorney fees of \$20,000/mo?

The table lists \$20,000 for attorney fees under the 3/1/19 column. It is unclear whether the attorney fees are intended to be a monthly business expense - in which event, why are they so high? - or bankruptcy fees - in which event, why are they included in this table, which should be limited to

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business income and expenses?

(v) Vague expenditures

The table lists gross income of \$75,000 as against expenses of \$35,000 for "Stones, Materials, Supplies for Jewelry" and \$10,000 for "Travel" (apparently for the business) (in addition to the \$20,000 for attorney fees). How can parties in interest or this Court determine whether causing Zeniba, LLC to make these vague and unsubstantiated proposed expenditures, with no historical context, is within the "ordinary course" of Debtor's own business dealings (in which event no approval of this Court is normally required per 11 U.S.C. 363(c)(1)), or if instead Court approval is required (11 U.S.C. 363(b))? How much assurance can there be that spending all these funds will result in the projected gross and net income?

(vi) Double-counting and/or mis-classification?

In addition to the table's listing of expenses, Debtor's Bankruptcy Schedule J, line 21, lists more "Business expenses" of \$10,833.00, without explanation. Why are such expenses not included in the table that is supposed to show all business expenses? What is the nature of such expenses?

Debtor's table of business expenses does not include any business meals, but her MOR does list several business meals, as does her Bankruptcy Schedule J, line 21. Again, why are all business expenses not included in the table that is supposed to show all gross income, expenses, and net income from the business?

(vii) Conclusion regarding budget

This Court recognizes that Debtor's use of funds during this bankruptcy case might be a moot point if all goes as she plans, and she is able to sell her home and pay her creditors. But best laid plans do not always work out, and meanwhile creditors and this Court are being left in the dark about Debtor's actual and projected income and expenses.

Debtor is cautioned that if she engaged in transactions that should have been, but were not, authorized, there may be adverse consequences. For example, if those transactions generate any losses/liability, then she might be liable, and such liability might be nondischargeable.

The tentative ruling is to set a deadline of 6/7/19 for Debtor to file an amended budget motion and her declaration addressing all of the foregoing issues, and serve those papers on the UST, Pensco, and any other creditor who requests a copy. The tentative ruling is to set the budget motion for a

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hearing on the same day as the continued status conference.

(2) Deadlines/dates. This case was filed on 4/11/19.

(a) Bar date: 7/23/19 (timely served 5/9/19) (dkt. 29, 31)

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/9/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Budget motion; Bankruptcy Schedule I

Debtor's status report (dkt. 19) anticipates that a budget motion will have been filed already, but as of the preparation of this tentative ruling none has been filed. Debtor has also ignored the instructions on Bankruptcy Schedule I, line 8a (dkt. 20 at PDF p.8) to "Attach a statement for each ... business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income" from the business. The tentative ruling is to set a deadline of 5/10/19 for filing and serving the budget motion and filing an amended Schedule I.

(b) UST compliance

Is Debtor now in compliance with the requirements of the Office of the United States Trustee ("UST")?

(2) Deadlines/dates. This case was filed on 4/11/19.

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(a) Bar date: 7/23/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 6/4/19 at 1:00 p.m., *brief* status report due 5/28/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff

Represented By
Michael Jay Berger

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2:18-12429 Dana Hollister

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#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/6/19:

Continue as set forth below. Appearances are not required on 8/6/19.

(1) Current issues

This Court is not aware of any issues that would warrant a status conference at this time.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 10/15/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/2/19:

Appearances required but telephonic appearances are encouraged if

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advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Debtor and Agent Dean Rallis' Joint Motion for Order Approving Sale, Assumption, and Assignment of Debtor's Leasehold Interest and Related Rights (the "Sale Motion," dkt. 860)

There is no tentative ruling but the parties should be prepared to address the issues raised in the response, reply, and other papers. See dkt. 860, 872, 878, 884, 886.

(b) Debtor's Motion to Approve Compromise (dkt. 876)

Grant, subject to resolution of any opposition at the hearing.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/6/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/18/19:

Continue as set forth below (to be concurrent with the Motion for 363 Sale and Stipulation (dkt. 860, 864)).

Appearances are not required on 6/18/19.

(1) Current issues.

This Court has reviewed the latest filed documents, and is not aware of

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any issues that would warrant a status conference at this time.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 7/2/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/28/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Motion re Insurance Financing (dkt. 839)

Debtor's declaration of service (dkt. 844) is insufficient. The declarant states that "All parties on the Court-approved short service list and the United States Trustee [were] served by U.S. mail" (*id.*, p.2, para.3) but there is no attached "short service list" with addresses (as required by both the rules and the mandatory form of proof of service, *see id.*, p.3, para.2). The tentative ruling is to grant the motion contingent on filing an amended declaration of service that includes the missing list.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/18/19 at 2:00 p.m. No written

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status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Continue as set forth below (to be concurrent with Debtor's premium financing motion (dkt. 839, 841)). This Court anticipates further continuing this status conference at a later date, per Debtor's request in the status report (dkt. 836). Appearances are not required on 5/21/19.

(1) Current issues.

This Court has reviewed the latest filed documents, and is not aware of any issues that would warrant a status conference at this time.

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/28/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 4/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Sale procedures motion, re leasehold interest in 1629 Griffith Park Blvd. (dkt. 778)

Grant, with a reservation of all rights for the Presbytery of the Pacific (the "Presbytery") with respect to any objection to the sale motion, including but not limited to any objection to assumption and assignment of the leasehold and Debtor's development and guaranty obligations. In addition, the parties are directed to address the deadline(s) and procedures for any objections by the Presbytery, given the short time between the proposed auction date (6/25/19), any filing of evidence of assurance of future performance, and the proposed sale hearing date (7/2/19). See dkt. 815, p.9, n.4.

In addition, the proposed notice (dkt.815, Ex.2) must specify that the hearing time is 2:00 p.m. (on 7/2/19). See *id.*, p.74, section VIII (entitled "Sale Hearing"). In addition, the proposed notice should be amended to clarify that any Backup Bid will be not just the "next highest" but the "next highest and best" bid after the Successful Bid (as determined by the Agent after consultation with Debtor and confirmation by this Court).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 5/21/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

- #2.00** Cont'd Status Conference re: Complaint for Non-Dischargeability of Debtor Pursuant to 11 U.S.C. Section 523(a)(4) and 11 U.S.C. Section 523(a)(6) fr. 7/19/16, 12/13/16, 05/02/17, 09/12/17, 2/27/18, 6/12/18,10/9/18, 12/18/18, 1/29/19, 2/26/19, 5/7/19, 06/04/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/6/19:

Continue to 9/10/19 at 2:00 p.m., to be heard concurrently with Plaintiff's Motion for Summary Judgment (see dkt. 34 & 39). Appearances are not required on 8/6/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This adversary proceeding has been pending since 1/4/16. At the hearing on 5/7/19, the parties informed this Court that the judgment at issue had been affirmed on appeal. Additionally, Defendant/Debtor had obtained new counsel (adv. dkt. 31) who requested additional time to review this matter. The parties should be prepared to address whether the nonbankruptcy judgment is preclusive on some or all issues in this adversary proceeding. If so, is there anything left to do but issue a judgment

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determining that the nonbankruptcy judgment is nondischargeable? On the other hand, if Defendant/Debtor asserts that preclusion is not sufficient to establish nondischargeability, what deadlines and other procedures should this Court adopt to move this matter forward (e.g., a deadline for any additional discovery and any dispositive motions, and a concurrent deadline to lodge an order for mandatory mediation)?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19 (same as for 2/26/19):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the status of the appeal in the civil matter.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 per the Plaintiff's filed status report (dkt. 28).
Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

The plaintiff mis-filed the status report in the main case (main case dkt. 42) instead of this adversary proceeding. The plaintiff also failed to lodge a proposed order continuing this matter (using this Court's "LOU" program), and instead attached it to the status report.

Notwithstanding these errors, the tentative ruling is to continue this Status Conference to 12/18/18 at 11:00 a.m. Plaintiff is directed to file the next status report in this adversary proceeding (not in the main case) no later than 12/4/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This matter has been continued multiple times (see tentative rulings reproduced below, and see Order, adv. dkt. 18). At the 2/27/18 hearing, this court further continued the hearing to today's date and directed plaintiff to give written notice. No such notice appears to have been filed on the docket. Why not?

There is no tentative ruling, but the parties should be prepared to address the issues described in the tentative ruling for 2/27/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Appearances required. At the hearing on 5/2/17 this court was persuaded to continue this matter to 9/12/17. This matter was further continued to today's date (see Order, adv. dkt. 18).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/2/17:

Appearances required. At the hearing on 12/13/16 this court was persuaded to continue this matter to today's date, with a deadline of 4/11/17 to complete mediation (see adv. dkt. 13 (mediation order)).

There is no tentative ruling, but the parties should be prepared to address (1) the results of their mediation, (2) whether to continue this status conference a short time (for finalization of any settlement) or a long time (far enough ahead that the parties can litigate their issues in State Court, which then presumably will have a partially or fully preclusive effect on any nondischargeability issues before this court), and (3) any other matters appropriate to address at this status conference.

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/13/16:

Continue to 2/7/17 at 11:00 a.m. at which time this court anticipates addressing, in view of the State Court's determinations as to pending matters, what trial date and other deadlines to set. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/19/16:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

(1) Failure to file a status report. Why did the plaintiff not file a status report updating the Court as to the status of the pending state court litigation (adv. dkt. 4)? Should this Court issue an order to show cause based on plaintiff's disregard of this Court's order?

(2) Status of the state court litigation. What is the status of the state court litigation?

(3) Continued status conference. Assuming that the state court litigation is still pending, this Court intends to set a continued status conference for 11/8/16 at 11:00 a.m. The plaintiff must file a brief status report detailing the current status of the state court litigation by 10/25/16.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
James R Selth
Michael D Anderson

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian
James R Selth

Valerie Fykes

Represented By
Michael D Anderson
James R Selth

Forrest Fykes JR

Represented By
Michael D Anderson
James R Selth

Melissa Fykes

Represented By
Michael D Anderson
James R Selth

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

2:00 PM

2:13-26483 Saeed Cohen

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#3.00 Cont'd Status Conference re: Post Confirmation
fr. 5/23/17, 8/8/17, 9/12/17, 12/12/17, 1/9/18,
4/10/18, 4/17/18, 07/17/18, 11/20/18, 12/11/18,
03/12/19, 3/26/19

Docket 0

Tentative Ruling:

Tentative Ruling for 8/6/19:

Continue to 11/5/19 at 2:00 p.m., with a *brief* status report due 10/22/19, based on Debtor's status report (dkt. 1522) and this Court's review of the filed documents and records. Appearances are not required on 8/6/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

This Court has reviewed the debtor's filed status report (dkt. 1520). The parties should be prepared to address at the continued status conference whether adversary proceeding no. 2:14-ap-01609-NB (*S. Cohen v. United States et al.*) requires (1) an order approving the stipulation between Mr. Cohen and the United States and (2) any other proceedings, or if that adversary proceeding can be closed. The tentative ruling is to continue this status conference to 8/6/19 at 2:00 p.m., with a *brief* status report due 7/23/19. Appearances are not required on 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

This Court has reviewed the debtor's filed status report (dkt. 1517) and has no issues to raise sua sponte. The tentative ruling is to continue this status conference to 3/12/19 at 2:00 p.m., with a *brief* status report due 2/26/19. Appearances are not required on 12/11/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/17/18:

This Court has reviewed the debtor's filed status report (dkt. 1511) and has no issues to raise sua sponte. The tentative ruling is to continue this status conference to 11/20/18 at 2:00 p.m., with a *brief* status report due 11/6/18. Appearances are not required on 7/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

(a) Grant the motion to clarify issues regarding class 8 claims (dkt. 1489) as amended by the supplement (dkt. 1496), (b) issue an order substantially in the form attached as an exhibit to that supplement (the debtor is directed to lodge that proposed order within 7 days after this hearing), and (c) set a

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continued post-confirmation status conference for 7/17/18 at 2:00 p.m., with a brief status report due 7/6/18. Appearances are not required on 4/17/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Saeed Cohen

Represented By

Ron Bender

Krikor J Meshefejian

Kurt Ramlo

Beth Ann R Young

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2:19-11809 Schaefer Ambulance Service, Inc

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Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#4.00 Cont'd status conference re: Removal
fr. 7/2/19

Docket 1

Tentative Ruling:

Appearances required. This Court has reviewed the parties' joint status report (adv. dkt. 20) and the other filed documents and records in this adversary proceeding.

(A) Debtor/Defendant's motion for TRO and/or alleged automatic stay violation in removed action (the "TRO Motion," 2:19-ap-01149-NB, dkt. 10), Cathay Bank's opposition (adv. dkt. 18), Debtor/Defendant's reply (adv. dkt. 19), and McNeal defendants' joinder (adv. dkt. 21)

(1) Whether the TRO Motion is properly before this Court
Cathay Bank asserts that a separate adversary proceeding is required for the TRO Motion. This Court disagrees.

Rule 7001(7) (Fed. R. Bankr. P.) provides that (with inapplicable exceptions) "a proceeding to obtain an injunction or other equitable relief" requires an adversary proceeding. But the removed action is itself an adversary proceeding that has been "federalized." This Court does not read Rule 7001(7) to require that the pleadings themselves must include requests for injunctive relief: in this Court's experience adversary proceedings sometimes include requests for preliminary injunctive relief, regardless whether the pleadings themselves include claims or counterclaims for injunctive relief, and requiring amendments to the pleadings every time anyone seeks injunctive relief appears to be unnecessary and unduly burdensome, so there is no reason to interpret Rule 7001(7) that way.

(2) Whether Cathay Bank's actions constitute a violation of the automatic stay

The tentative ruling is that Cathay Bank's attempts to depose Schaefer Ambulance's accountant after removal of the state court action to Bankruptcy Court would constitute a violation of the automatic stay. But the tentative

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ruling is also that it is appropriate to annul the stay retroactively such that those attempts do not constitute any such violation. These tentative rulings involve several steps, discussed below.

(3) Whether 11 U.S.C. 362(a)(1) applies to removed actions

(a) Plain meaning

The plain meaning of the statute is that the stay applies to the "continuation" of any pending "action or proceeding against the debtor." 11 U.S.C. 362(a)(1). Cathay Bank cites to several decisions for the proposition that the automatic stay implicitly does not apply to proceedings initiated against a debtor in the debtor's home Bankruptcy Court. See adv. dkt. 18 at PDF pp. 10-11; and see generally *In re Miller*, 397 F.3d 726, 730 (9th Cir. 2005) ("The automatic stay does not apply to proceedings initiated against the debtor if the proceedings are initiated in the same bankruptcy court where the debtor's bankruptcy proceedings are pending.") (citations omitted). This Court is bound by that holding, and fully agrees with it. But there is a substantial difference between proceedings initiated in the Bankruptcy Court and proceedings that are removed to the Bankruptcy Court.

When a proceeding is initiated in the Bankruptcy Court, a strict application of section 362(a)(1) would lead to absurd results - e.g., having to file a motion for relief from the automatic stay before filing most papers, including a motion for relief from the automatic stay itself (which would result in an infinite series of motions to be able to file motions). But Cathay Bank has not established that there is anything absurd about applying the plain meaning of the statute to a removed action. Therefore, this Court must apply the plain meaning of the statute.

(b) Alternative analysis

Alternatively, supposing for the sake of discussion that there were any ambiguity in the applicable statutes (which there is not), that would mean that this Court should look to what the applicable rules provide and, if they provide no guidance, then this Court should look to any relevant legislative or rule-making history as well as policy considerations. Debtor/Defendant points out that none of the cases cited by Cathay Bank address the advisory committee notes to Rule 9027 (see adv. dkt. 19 at PDF p. 3) which provide in relevant part:

If the claim or cause of action which is removed to the bankruptcy court is subject to the automatic stay of [section] 362

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of the Code, the litigation may not proceed in the bankruptcy court until relief from the stay is granted. [Rule 9027 Advisory Committee Notes (emphasis added).]

In addition, public policy favors application of the automatic stay. One of the main purposes of the stay is to provide a breathing spell for debtors. See *In re N. Coast Village, Ltd.*, 135 B.R. 641, 643 (9th Cir. BAP 1992). If a creditor could obtain automatic relief from the automatic stay simply by removing an action that would eviscerate the breathing spell.

Another purpose of the automatic stay is to protect creditors from each other by stopping a race for the debtor's assets. *Id.* Again, that purpose would be entirely undermined if a creditor who happened to have a pending action could obtain automatic relief from the stay by removing that action (while other creditors, who did not already have a pending action on the petition date, would remain stayed).

A third purpose of the automatic stay is to provide for an orderly liquidation (or reorganization) of the estate. Again, that purpose would be frustrated if any creditor with a pending action could automatically obtain relief from the automatic stay simply by removing the action.

True, the Bankruptcy Court could be asked to enjoin such a creditor, and if the creditor had already taken acts detrimental to the estate the Bankruptcy Court could be asked to try to "put Humpty Dumpty back together again." But it might be too late, and in any event that shifts the burden to the debtor and the bankruptcy estate, contrary to Congress' purpose in providing a stay in the first place - that is why, after all, the stay is "automatic": to alleviate the burden on a debtor/trustee and other creditors of having to scramble to stop whatever litigation is pending.

It is also true that the Bankruptcy Appellate Panel for the Ninth Circuit (the "BAP") has held that section 362(a)(1) does not apply to removed actions, in an unpublished decision cited by *Cathay Bank*. See *In re Liberty Asset Mgmt. Corp.*, 2017 Bankr. Lexis 758, at *11-12 (9th Cir. BAP). But this Court respectfully disagrees with *Liberty Asset*. The BAP did not address how it could disregard the plain meaning of the statute, nor did it address the legislative history of the statute or Rule 9027, nor did it address public policy.

For all of these reasons, this Court concludes that even if section 362(a)(1)'s meaning were not plain (which it is), both the advisory committee's notes and public policy favor application of the automatic stay to any pending action against the debtor even when it is removed to the Bankruptcy Court.

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This conclusion accords with persuasive authority cited by Debtor/Defendant. See *In re Cashco, Inc.*, 599 B.R. 138 (Bankr. D. N.M. 2019) ((cited in Reply (adv. dkt. 19), pp.2-3). See also *In re Brateman Bros., Inc.*, 135 B.R. 853, 855 (Bankr. N.D. I.N. 1991) (same).

(4) Whether the removed action is "against the debtor"

As Cathay Bank concedes, the removed action "is presently proceeding against all Defendants," which includes the Debtor/Defendant. Adv. dkt. 18 at PDF p.12. Cathay Bank proposes to depose Debtor/Defendant's accountants and not its principals at this time (see adv. dkt. 18 at PDF p.14).

The tentative ruling is that Debtor/Defendant is correct that this is an action "against" it within the meaning of section 362(a)(1). Allowing Cathay Bank to depose the accountant and continue otherwise prosecute the removed action could "result in potentially preclusive adverse findings and rulings against the Debtor, and to recover damages from the Officers to satisfy Cathay's prepetition claims against the Debtor." Adv. dkt. 10 at PDF p.15. Therefore the action is within the ambit of matters that are stayed under section 362(a)(1).

(5) Annulment

The tentative ruling is, on this Court's own motion, to grant retroactive annulment of the stay as to past acts, without granting prospective relief except as provided in the next section of this discussion (below). There are several reasons why annulment appears to be appropriate.

First, Cathay Bank had reason to believe that its acts did not violate the automatic stay because several courts have so held, including the BAP. There is even authority that BAP decisions are binding (this Court respectfully disagrees - in the absence of a parallel holding from the District Court or a higher Court - but the point is that Cathay Bank had reasons to believe that, under binding authority in this Circuit, its acts did not violate the automatic stay).

Second, there is no evidence that Cathay Bank was not acting in good faith. Cathay Bank's papers set forth a fairly long history of delays in its ability to obtain discovery, including what appear to be good faith extensions granted by Cathay Bank.

Third, Debtor/Defendant does not assert that any harm has occurred

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from violation of the automatic stay, other than having to brief the issue, and this Court is not inclined to treat that as cognizable harm in these circumstances. It appears that no actual discovery has taken place, so all of Debtor/Defendant's rights are preserved to oppose such discovery.

Fourth, there is a judicial and practical efficacy of annulling the stay retroactively, so as to reduce the parties' expenditure of time and money arguing over a non-event (the lack of discovery) and focus instead on future events: whether discovery should or should not be permitted going forward.

Finally, without listing every factor identified in the cases as potentially relevant, the tentative ruling is taht balancing all of the equities favors annulment. *See In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); *and see also In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues, In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

(6) Whether Debtor/Defendant has met the standard for a temporary restraining order

The tentative ruling is that some limitations on discovery are appropriate. But the tentative ruling is also to agree with Cathay Bank that preservation of evidence is sufficiently important to warrant some discovery at this point, including not only document production but also obtaining witness' testimony while events are still somewhat fresh in their minds.

Under Section 105(a), a bankruptcy court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Section 105(a) gives the bankruptcy courts power to stay actions that are not subject to the section 362(a) automatic stay but "threaten the integrity of a bankruptcy's estate." *In re Excel Innovations, Inc.*, 502 F.3d 1086, 1093 (9th Cir., 2007) (internal citations and quotations omitted).

Because Debtor/Defendant seeks to prevent Cathay Bank from continuing the removed action and deposing its accountant, Debtor/Defendant is at least in part asking for a preliminary injunction to stay actions against non-debtors. In addition, the following analysis would apply as to Debtor/Defendant itself in the event that (contrary to the tentative ruling in earlier sections of this discussion) the automatic stay did not apply, because the "usual preliminary injunction standard applies to stays of

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proceedings against non-debtors under [Section] 105(a)." *Id.* at 1904.

To prevail on the TRO Motion, Debtor/Defendant must show:

(1) a strong likelihood of success on the merits, (2) the possibility of irreparable injury to [the party seeking the TRO] if preliminary relief is not granted, (3) a balance of hardships favoring [that party], and (4) advancement of the public interest (in certain cases). Alternatively, a court may grant the injunction if [Debtor/Defendant] demonstrates *either* a combination of probable success on the merits and the possibility of irreparable injury *or* that serious questions are raised and the balance of hardships tips sharply in [its] favor. ... These two formulations represent two points on a sliding scale in which the required degree of irreparable harm increases as the probability of success decreases. They are not separate tests but rather outer reaches of a single continuum. [*Id.* at 1093, internal citations omitted]

The maximum injunctive relief that a bankruptcy court may grant is a stay until confirmation of a plan of reorganization. *Id.* at 1095 (internal citations omitted).

(a) Likelihood of success on the merits/successful restructuring

In this context the Ninth Circuit has equated the likelihood of success on the merits with the likelihood of a successful reorganization. The Ninth Circuit has also noted that "it is not a high burden to show reasonable likelihood of success in reorganization." *Id.* at 1097.

Cathay Bank argues that because Debtor/Defendant is liquidating rather than filing a plan of reorganization, it has failed to meet this element. See adv. dkt. 18 at PDF p.16. Debtor/Defendant argues the contrary, and notes that Section 1123 allows a chapter 11 liquidation. See adv. dkt. 10.

This Court is inclined to read the term "reorganization" to include any proper financial restructuring under the Bankruptcy Code, including a liquidation in a chapter 11 case. It makes sense to read *Exce/* this way, because this Court takes judicial notice that the assistance of any debtor's principals can be just as necessary, or even more so, in an orderly liquidation as in a reorganization. In other words, the purposes of injunctive relief would be served by recognizing the likelihood of a successful liquidation as satisfying this element.

Debtor/Defendant has shown a reasonable likelihood of success

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regarding a successful liquidation of the bankruptcy estate. For example, this Court has authorized the marketing of various parcels of real property, one of which has now been authorized to be sold (see dkt. 307), and this Court has also authorized the sale of personal property of the estate (see dkt. 291). In addition, Debtor/Defendant is within the (extended) exclusivity period (see dkt. 271).

For the foregoing reasons, this element thus weighs in favor of granting some sort of injunctive relief.

(b) Irreparable harm

Debtor/Defendant argues that it will suffer irreparable harm if Cathay Bank is permitted to continue prosecuting the removed action because its principals are critical to a successful liquidation and financial restructuring. See adv. dkt. 10 at PDF p.20. Cathay Bank argues to the contrary, based on Debtor/Defendant's lack of ongoing operations and its hiring of experts to liquidate the estate. See adv. dkt. 18 at PDF p.17.

This Court takes judicial notice that hiring professionals to liquidate the estate is a far cry from turning over the entire liquidation to those professionals, and that in many cases a debtor's principals have to be closely involved in the process of liquidation so as to preserve as much value as possible. For example, liquidating assets such as receivables may require detailed knowledge of past practices and events, to address the account obligors' excuses for non-payment or reduction in payments. That appears to be particularly applicable in this case, because of the complex aspects of collecting medical reimbursements from governmental entities, insurers, hospitals, private patients, etc.

This element thus weighs in favor of granting some form of injunctive relief.

(c) Balance of hardships

Under this prong of the test, "a bankruptcy court must identify the harms which a preliminary injunction might cause to defendants and ... weigh these against plaintiff's threatened injury." *In re Excel Innovations, Inc.* 502 F.3d at 1097 (internal quotations and citation omitted).

Cathay Bank argues that the balance of hardships weighs in its favor because evidence and documents of the third-party accountants must be preserved, and information must be obtained while it is relatively fresh in the accountant's mind. See adv. dkt. 18 at PDF p.17. Debtor/Defendant argues that the balance of hardships weighs in its favor for essentially the same

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reasons it would suffer irreparable harm. See adv. dkt. 10 at PDF p.21. In its reply it further argues that any hardship that may have been imposed from delay in discovery efforts were mitigated by its cooperation in producing documents, and the fact that its accountants presumably have been instructed by their own legal counsel about the requirement to retain documents. See adv. dkt. 19 at PDF p.8.

The tentative ruling is that Cathay Bank has the better of this argument. Memories can fade quickly (or at least, witnesses might be able to assert faded memory more plausibly when time passes). Documents can be inadvertently (or intentionally) misplaced or destroyed. It is appropriate to preserve evidence, including both documents and testimony.

This element thus weighs against granting the TRO Motion.

(d) Public interest

Cathay Bank did not address this element in its opposition. Debtor/Defendant argues that the element weighs in its favor because "the public interest is served in a bankruptcy case by promoting a successful reorganization" (adv. dkt. 19 at PDF p. 8), but it is not apparent why deposing Debtor/Defendant's accountants would impose such a heavy burden on the Debtor/Defendant's principals that the potential disruption to the bankruptcy process would outweigh Cathay Bank's need to preserve evidence.

This element thus weighs against granting the TRO Motion.

(e) Conclusion

This Court's tentative ruling is that Cathay Bank be permitted to obtain discovery from Debtor/Defendant's accountant, including both documentary evidence and deposition testimony. In other respects, however, the tentative ruling is to grant the TRO Motion on an interim basis, with a continued hearing in a couple of months to reassess the situation.

(7) Sanctions

In Cathay Bank's opposition (adv. dkt. 18 at PDF pp.13-14) and Debtor/Defendant's reply (adv. dkt. 19 at PDF p.4-5) there are references to allegedly sanctionable conduct of the other party. Because neither party has filed any separate motion for sanctions or briefed this Court on the issue, this Court expresses no opinion on these issues.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling,

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thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(B) Other issues in the removed proceeding

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of **8/20/19** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

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(3) Deadlines

This adversary proceeding has been pending since 5/21/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 9/3/19.

Continued status conference: 9/17/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By

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Monserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Represented By
Michael J Khouri

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Plaintiff(s):

Cathay Bank, a California banking

Represented By
Michael G Fletcher
Reed S Waddell
Gerrick Warrington

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Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#5.00 Cont'd status conference re: Motion for a temporary restraining order Determining that Continuation of Removed Action Against the Debtors Officers and Directors Violates the Automatic Stay, and (2) Temporary Restraining Order and Preliminary Injunction Enjoining Plaintiff Cathay Bank from Continuing Removed Action Against the Debtors Officers and Directors
fr. 7/2/19

Docket 10

Tentative Ruling:

Tentative Ruling for 8/6/19:

Please see the tentative ruling for the adversary proceeding status conference (calendar no. 4, 8/6/19 at 2:00 p.m.)

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the main case status conference (calendar no. 6, 7/2/19 at 2:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Monserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Represented By

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Chapter 11

Michael J Khouri

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Movant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Monserrat Morales
Craig G Margulies

Plaintiff(s):

Cathay Bank, a California banking

Represented By
Michael G Fletcher
Reed S Waddell
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 6, 2019

Hearing Room 1545

2:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

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#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/6/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Debtor's motion for TRO and/or alleged automatic stay violation in removed action (the "TRO Motion," 2:19-ap-01149-NB, dkt. 10), Cathay Bank's opposition (adv. dkt. 18), Debtor's reply (adv. dkt. 19), and McNeal defendants' joinder (adv. dkt. 21)

Grant in part and deny in part, as set forth in the tentative ruling for calendar no. 4 (8/6/19 at 2:00 p.m.).

(b) TCF Equip. Finance, Inc.'s emergency motion (dkt. 310) to modify order (dkt. 291) re sale of personal property

This Court has provisionally authorized TCF to present this matter on 8/6/19 at 2:00 p.m., based on a telephonic request pursuant to LBR 9075-1(a). The first issues this Court will address are (i) whether TCF has served whatever parties are appropriate, in sufficient time, and (ii) whether shortening time is appropriate. If so, this Court will address the merits of whatever TCF is requesting.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 7/30/19:

Appearances required.

(1) Current Issues

(a) Debtor's Motion to Sell Gale Property Free and Clear (dkt. 294)

Grant the motion, subject to (i) the requirements in Cathay Bank's response (dkt. 304) (proceeds are subject to its lien under cash collateral order, to be held in segregated DIP account pending further order of this Court); (ii) any opposition and any overbids at the hearing (see OST, dkt. 297), and (iii) if there are overbidders, subject to the filing of a "good faith" declaration (11 U.S.C. 363(m)) by the winning bidder that substantially complies with Judge Bason's posted procedures (available at cacb.uscourts.gov). See *id.* The tentative ruling is that the good faith declaration of one of the proposed purchasers (dkt. 305) is sufficient if they are the winning bidder.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 8/20/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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Tentative Ruling for 6/18/19:

Continue this status conference as set forth below. Appearances are not required on 6/18/19.

(1) Current issues

(a) Debtor's motion to extend exclusivity period and extend period to assume/reject leases (the "Extension Motion," dkt. 239)

Grant - *i.e.*, (i) extend Debtor's exclusive right to file a plan of reorganization and gain acceptance of a plan of reorganization to and including 9/1/19 and 12/1/19, respectively, and (ii) extend the period in which Debtor may assume or reject unexpired leases of non-residential real property to and including 9/1/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/30/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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Tentative Ruling for 6/4/19:
Appearances required.

(1) Current issues

(a) Application to employ real estate broker (dkt. 164)

Subject to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property (see Cathay Bank Obj., dkt. 243, at pp.6:25-7:6), the tentative ruling is to grant the application to employ real estate broker. The tentative ruling is to overrule Cathay Bank's other objections.

(i) Alleged lack of disinterestedness

Although Cathay Bank's supplemental opposition (dkt. 243) argues that the proposed broker, Standard Mortgage, Inc. dba Standard Realty ("Broker") is not "disinterested," and therefore is not eligible for employment under 11 U.S.C. 327(a), the tentative ruling is that this objection is not persuasive. True, an independent contractor with Broker, Mr. Akbari (who previously stated that he was an "employee" of Broker), is married to the sister of the wife of one of Debtor's officers/control persons. Cathay Bank cites authority that, under California law, being a brother-in-law is equivalent to being a brother, so the tentative ruling is that Mr. Akbari is a "relative" of an "officer" or "person in control" of Debtor and therefore he is an "insider." See 11 U.S.C. 101(45) (a "relative" means an "individual related by affinity or consanguinity within the third degree as determined by the common law"); 101(31)(B)(vi) (insider includes a "relative of a ... officer, or person in control of the debtor"). But that does not mean that Broker is an insider.

It also appears to be true that Debtor has not been as forthcoming with the connections between Broker and Debtor as would have been advisable, including both the familial relationships noted above and the recent discovery that Mr. Akbari "was the listing agent on the Cabrillo Street Property (during the *nunc pro tunc* timeframe in which the Broker is sought to be employed)" Cathay Bank Obj. dkt. 243, p.3:4-6 & Warrington Decl., Ex.1. Finally, as noted in the tentative ruling for 5/21/19, part (1)(b) (reproduced below), the statutory list of insiders "includes" but is not limited to the listed examples (see 11 U.S.C. 102(3)) and in addition this Court notes that a professional must be not only "disinterested" but also must not "hold or

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represent an interest adverse to the estate." 11 U.S.C. 327(a).

But the tentative ruling is that the facts recited above do not disqualify Broker from employment. A different real estate agent will be handling this matter (Mr. Ahmadi, dkt. 234); there is no evidence that Mr. Ahmadi or Broker itself has any incentive to act in any way adverse to the bankruptcy estate; and the failures to provide disclosure of every arguable "connection" between Broker and Debtor (within the meaning of Rule 2014, Fed. R. Bankr. P.) is unfortunate but understandable given the attenuated nature of the connections (Debtor's officer's wife's sister's husband originally was the listing agent for Broker on one of the four properties to be sold).

(ii) Alleged issues with 4.5% commission

Cathay Bank argues that Debtor has failed to justify a 4.5% commission; but to the contrary, the tentative ruling is that in general this Court should give deference to Debtor's business judgment, and that even without such deference Debtor has provided sufficient evidence that a 4.5% commission is appropriate (see dkt. 234) (Declaration regarding typical commission for commercial properties being 4-6%, and for residential properties 5-6%). Cathay Bank has provided no evidence to the contrary. Nor has Cathay Bank cited authority that Debtors are required to "shop around" for the lowest commission (which might not be the best broker) prior to selecting a broker, especially given that the proposed Broker has agreed to a slightly reduced commission from what is typical (see *id.* at 3).

(iii) Alleged lack of qualifications re industrial property

The tentative ruling is that although there may be conceptual differences between "industrial" and "commercial" properties, Cathay Bank has not established that any such difference is meaningful in the context of this case and the properties at issue.

(iv) Conclusion as to Broker

The tentative ruling is to grant the application and authorize Broker's employment subject, again, to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property. See Cathay Bank Obj., dkt. 243, at pp.6:25-7:6.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

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- (2) Deadlines/dates. This case was filed on 2/20/19.
- (a) Bar date: 6/17/19 (timely served, dkt. 129).
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 6/18/19 at 2:00 p.m., no status report required.
- *Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Debtor's counsel's fee application (dkt. 175, 177)
Allow \$145,683.50 in fees and \$5,714.10 in expenses for a total of \$151,397.50, and authorize draw down of the retainer (\$124,846.70 remaining), with the balance of the fees and expenses to paid from the estate.

Cathay Bank's response (dkt. 207) does not object to allowance of the fees but seeks to reserve all rights it might have regarding a purported lien on some of the retainer. Debtor's reply (dkt. 215) asserts that the bank has no such rights to reserve because it has been given a replacement lien on the real estate.

This Court's recollection is that the bank did not entirely waive such rights at the hearing on 5/7/19, but did indicate that it was no more going to seek disgorgement from Debtor's firm (of authorized postpetition distributions from the retainer account) than it would seek disgorgement from one of Debtor's utilities (of authorized postpetition utility payments). In any event, whatever the parties' interpretations of the representations on 5/7/19, the

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issue is too remote for either party to be expending any substantial attorney fees on it at this time.

Cathay Bank has its security interest in the accounts receivable that existed as of the petition date, and it has replacement liens in ongoing accounts receivable. Debtor believes the bank will be paid in full out of those things. But as adequate protection (11 U.S.C. 361, 363(e) & 552(b)) the bank has replacement liens in Debtor's real estate - to cover both (i) any diminution in the value of its security interest in the accounts receivable as of the petition date and (ii) any diminution in the value of its purported security interest in the retainer as of the petition date. Therefore the bank's and Debtor's rights are both reserved, and neither party should be spending much time on this issue. Any attorney fees spent arguing about this issue are subject to this Court's review for reasonableness (under 11 U.S.C. 330 and 331 for Debtor's counsel, and under 11 U.S.C. 506(b) for Cathay Bank's counsel).

(b) Application to employ real estate broker (dkt. 164)

The tentative ruling is, with one exception, to overrule the objection of Cathay Bank (dkt. 199), based on Debtor's reply (dkt. 214). The exception is that, although Debtor has presented evidence of the reasonableness of the broker's proposed commission and experience, and this Court generally should defer to Debtor's business judgment, Cathay Bank makes a good point that the real estate at issue ranges broadly from a single family residence to commercial property etc., and there is insufficient evidence of the proposed broker's specific experience as to each type of real estate. The tentative ruling is to set a **deadline of 5/24/19** for Debtor to file and serve a supplemental declaration detailing such experience, with a **deadline of 5/29/19** for any supplemental objection by Cathay Bank, and a continued hearing (if there is any such objection) concurrent with the continued status conference (see below).

As for disinterestedness (11 U.S.C. 101(14), 327(a)), Cathay Bank argues that the broker is not disinterested because, from the information on the docket, it appears that one of its alleged employees (Mr. Akbari) is a relative by marriage of one of Debtor's principals, and the principals are beneficiaries of a trust that engaged in prepetition transactions with Debtor that, according to the bank, violated Debtor's covenants with the bank. On the one hand, it is true that Mr. Akbari previously declared that he was "employed" by the broker (dkt. 77, p.1:22).

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On the other hand, this Court interprets that as an (unfortunately) imprecise description of his arrangement as an independent contractor. Alternatively, even if he is an employee, this Court is not persuaded that this disqualifies the broker from employment by the estate.

Mr. Akbari apparently is married to the sister of the wife of one of Debtor's officers/control persons. The tentative ruling is that this makes him related "by affinity or consanguinity" within the fourth degree (1.officer - 2.spouse - 3.sister of spouse - 4.Mr. Akbari), so he is not a "relative" within the meaning of 11 U.S.C. 101(45) and therefore he is not an "insider" within the meaning of 11 U.S.C. 101(31)(B)(vi) or (E). That is not dispositive, because, the statutory list of insiders "includes" but is not limited to the listed examples. See 11 U.S.C. 102(3). But the tentative ruling is that the connection has been sufficiently disclosed (Rule 2014, Fed. R. Bankr. P.) and is not disqualifying.

In practical terms, this Court does not perceive that any alleged ties between the proposed real estate broker and Debtor's principal creates any incentive to lessen the price obtained for the real estate, or otherwise prejudice the interests of the bankruptcy estate. Accordingly, the tentative ruling is to approve the employment, subject to satisfactory supplemental evidence as set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: The tentative ruling is to vacate any deadline to file a proposed plan and disclosure statement, given the current posture of this case.

(c) Continued status conference: 6/4/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

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Revised Tentative Ruling for 5/7/19:
Appearances required.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week without further authorization of this Court. (To be clear: if Debtor in its business judgment believes that it must incur more than that amount of professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

(c) Cathay Bank's adequate protection: replacement liens v. cash payments

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The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)

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state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate declaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

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Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are

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directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to

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2:00 PM

CONT... **Schaefer Ambulance Service, Inc**

Chapter 11

establish on a *prima facie* basis a reasonably probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

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Schaefer Ambulance Service, Inc

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

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CONT...

Schaefer Ambulance Service, Inc

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Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.,* were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#7.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19

Docket 43

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this
Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim

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2:00 PM

2:16-21559 David MacMillan

Chapter 7

#8.00 Cont'd hrg re: Motion for Turnover of Estate Property and Accounting
fr. 05/21/19, 06/04/19, 7/2/19

Docket 355

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this
Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Movant(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

2:16-21559 David MacMillan

Chapter 7

#9.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19

Docket 332

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this
Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#10.00 Cont'd Status Conference re: Complaint Objecting to Discharge of Cynthia Barrett Martin fr. 01/09/18, 1/30/18, 4/9/19; 04/30/19, 05/21/19, 06/04/19, 7/2/19

Docket 1

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#11.00 Cont'd hrg re: Plaintiff's Motion for Summary Judgment
and for Entry of a Separate Judgment
fr. 06/04/19, 7/2/19

Docket 53

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this
Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

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CONT... David MacMillan

Chapter 7

Movant(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#12.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 04/09/19, 04/30/19, 5/7/19, 06/04/19, 7/2/19

Docket 1

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

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2:00 PM

CONT... David MacMillan

Chapter 7

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#13.00 Cont'd hrg re: Plaintiff's Motion for Summary Judgment
fr. 06/04/19, 7/2/19

Docket 98

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this
Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Movant(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

**United States Bankruptcy Court
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2:00 PM

CONT... David MacMillan
Peter J Mastan (TR)

Pro Se

Chapter 7

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Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#14.00 Cont'd Status Conference re: Complaint to Determine
Non-Dischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18,
08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19,
4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19

Docket 1

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this
Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, August 6, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#15.00 Cont'd hrg re: Declaration of Daniel M. Eliades in Further Support of Wyndham Vacation Resort Inc.'s Motion to Compel fr. 7/30/19

Docket 128

***** VACATED *** REASON: Continued to 8/20/19 at 2:00 p.m. due to this Court's own calendaring needs.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Movant(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

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Hearing Room 1545

2:00 PM

CONT... David MacMillan

Chapter 7

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, August 6, 2019

Hearing Room 1545

2:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#16.00 Hrg re: TCF Equipment Finance, Inc.'s Emergency Motion to (1) Modify Order Authorizing Sale of Personal Property of the Estate or, Alternatively, (2) Confirming Immediate Termination of Automatic Stay pursuant to Adequate Protection Stipulation

Docket 310

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Movant(s):

TCF EQUIPMENT FINANCE, a

Represented By
Raffi Khatchadourian
Christopher D Crowell

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, August 8, 2019

Hearing Room 1545

9:00 AM

2:18-12286 Kevin James Quinn

Chapter 7

Adv#: 2:18-01158 Duff v. Quinn

#1.00 Cont'd Trial re: Complaint for Objecting to Debtor's
Discharge Pursuant to Section 727 of the Bankruptcy Code
fr. 08/07/18, 11/27/18, 2/5/19, 3/28/19, 06/06/19

Docket 1

Party Information

Debtor(s):

Kevin James Quinn

Represented By
John F Wolcott

Defendant(s):

Kevin James Quinn

Pro Se

Plaintiff(s):

James T Duff

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:16-10993 Michelle Emelle

Chapter 13

#1.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 105

Tentative Ruling:

Appearances required. There is no tentative ruling, but the Debtor should be prepared to address the issues raised by the Chapter 13 Trustee's comments (dkt. 106).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michelle Emelle

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:17-20738 Cesar Augusto Vielman and Ana Marlene Vielman

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to Modify Plan or Suspend Plan Payments

Docket 39

Tentative Ruling:

Appearances required. There is no tentative ruling, but the Debtor should be prepared to address the issues raised by the Chapter 13 Trustee's comments (dkt. 41).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cesar Augusto Vielman

Represented By
Barry E Borowitz

Joint Debtor(s):

Ana Marlene Vielman

Represented By
Barry E Borowitz

Movant(s):

Cesar Augusto Vielman

Represented By
Barry E Borowitz

Ana Marlene Vielman

Represented By
Barry E Borowitz

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

8:30 AM

CONT... Cesar Augusto Vielman and Ana Marlene Vielman

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:19-10974 Rafael A Gonzalez

Chapter 13

#3.00 Hrg re: Motion to Avoid Junior Lien on principal residence [11 U.S.C. section 506(d)] with creditor DiTech Home Loans

Docket 24

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rafael A Gonzalez

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:18-24734 Edward Figueroa and Victoria Rachel Figueroa

Chapter 13

#4.00 Hrg re: Objection to proof of claim
11 filed by Quantum3 Group LLC

Docket 25

Tentative Ruling:

Continue to 9/19/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 8/15/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

**United States Bankruptcy Court
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Los Angeles
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Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

CONT... **Edward Figueroa and Victoria Rachel Figueroa** **Chapter 13**

cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edward Figueroa

Represented By
Sundee M Teeple

Joint Debtor(s):

Victoria Rachel Figueroa

Represented By
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:18-16709 George Michael Masciave and Cristen Dyniece Masciave

Chapter 13

#5.00 Hrg re: Motion for order disallowing claim of Ocwen
Loan Servicing LLC (Claim #6 on court's docket)

Docket 76

Tentative Ruling:

Grant insofar as disallowing the arrears listed in Claim No. 6 (item 9), and any other aspect of the claim that is inconsistent with the parties' loan modification (see dkt. 59, 64). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

George Michael Masciave

Represented By
Bert Briones

Joint Debtor(s):

Cristen Dyniece Masciave

Represented By
Bert Briones

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

CONT... George Michael Masciave and Cristen Dyniece Masciave

Chapter 13

Movant(s):

George Michael Masciave

Represented By
Bert Briones

Cristen Dyniece Masciave

Represented By
Bert Briones

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:19-13381 Albert Ortiz

Chapter 13

#6.00 Hrg re: Debtor's motion for order reconsidering the imposition of a 180-day bar to being a debtor in bankruptcy

Docket 21

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Motion By Debtor For Order Reconsidering The Imposition Of A 180-Day 11 U.S.C. Section 109(g) Prohibition Against Filing A New Case (dkt. 21).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Albert Ortiz

Represented By
Natalie A Alvarado

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:16-24755 Gloria Elisa Galvan

Chapter 13

#7.00 Hrg re: Motion for Protective Order Authorizing Debtor and Respondent to File Under Seal the Settlement Agreement Between the Debtor and Respondent, TSDC, LLC in Debtor's Objection to Claim #13

Docket 184

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the motion (dkt. 184), the objection of the United States Trustee (dkt. 189).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:18-15959 Luis B. Rosales

Chapter 13

#8.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 07/18/19

Docket 73

Tentative Ruling:

Tentative Ruling for 8/15/19 (same as for 7/18/19)

Appearances required. There is no tentative ruling, but the Debtor should be prepared to address the issues raised by the Chapter 13 Trustee's comments (dkt. 75).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Luis B. Rosales

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:18-24164 Roberta Morrill

Chapter 13

#9.00 Cont'd hrg re: Objection to Claim Number 7 by
Claimant BMW Bank of North America
fr. 07/18/19

Docket 30

Tentative Ruling:

Tentative Ruling for 8/15/19:

Grant (sustain the objection to Claim No. 7 of BMW Bank of North America).
Appearances are not required.

This Court expressly finds that Counsel has provided a cost/benefit analysis (dkt. 32) that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections, so any limitation on fees in the prior tentative ruling on this matter is hereby vacated.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/18/19:

Continue to 8/15/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 7/18/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0%

**United States Bankruptcy Court
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8:30 AM

CONT...

Roberta Morrill

Chapter 13

then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

CONT... Roberta Morrill

Chapter 13

Debtor(s):

Roberta Morrill

Represented By
Michael D Franco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:19-17069 Maura Mendoza Preciado

Chapter 13

#10.00 Cont'd hrg re: Order show cause re: Dismissal due to simultaneous bankruptcy cases fr. 07/18/19

Docket 12

Tentative Ruling:

Tentative Ruling for 8/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The tentative ruling is either to continue this hearing or to discharge the order to show cause (the "OSC," dkt. 12) depending on the following. Debtor's response (dkt. 26) does not explain why the other bankruptcy case has been pending without any activity since April of 2019. What is Debtor doing to assure that the other case is concluded.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/18/19:

Continue to 8/15/19 at 8:30 a.m. based on Debtor's counsel's request.
Appearances are not required on 7/18/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
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Los Angeles
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Thursday, August 15, 2019

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8:30 AM

CONT... Maura Mendoza Preciado

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maura Mendoza Preciado

Represented By
Leonard Pena

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:14-21119 Carlos Roberto Calderon and Rosalva Calderon

Chapter 13

#11.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 07/18/19

Docket 98

Tentative Ruling:

Tentative Ruling for 8/15/19 (same as for 7/18/19):

Appearances required. There is no tentative ruling, but the Debtors should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 100).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carlos Roberto Calderon

Represented By
Tamar Terzian

Joint Debtor(s):

Rosalva Calderon

Represented By
James T King
Tamar Terzian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:18-15783 Jose Villacorta and Sharlette M. Villacorta

Chapter 13

#12.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 07/18/19

Docket 46

Tentative Ruling:

Tentative Ruling for 8/15/19 (same as for 7/18/19):

Appearances required. There is no tentative ruling, but the Debtors should be prepared to address the issues raised by the Chapter 13 Trustee's comments (dkt. 48).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Villacorta

Represented By
R Grace Rodriguez

Joint Debtor(s):

Sharlette M. Villacorta

Represented By
R Grace Rodriguez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:19-15996 Jose Nelson Solis Broce

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [NA] /Order to show cause why case should not be dismissed with a 180-day bar fr. 08/06/19

THE PEOPLE OF THE STATE OF CALIFORNIA
vs
DEBTOR

Docket 19

Tentative Ruling:

Tentative Ruling for 8/15/19:

Appearances required. There is no tentative ruling, but the Debtor should be prepared to address the issues raised in this Court's "Order Regard (1) Movant's Request For Dismissal With A Bar And (2) This Court's Prior Order Directing Debtor To Show Cause Why This Case Should Not Be Dismissed With A Bar" (dkt. 42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

Grant the motion's requests for (a) relief from the automatic stay, and (b) dismissal with a bar, as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

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Los Angeles
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8:30 AM

CONT... Jose Nelson Solis Broce

Chapter 13

Key documents reviewed (in addition to motion papers): response (dkt. 23), reply (dkt. 29).

The automatic stay does not apply

The motion papers establish that the exception to the automatic stay under 11 U.S.C. 362(b)(4) applies.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) for the reasons set forth in the motion papers and the reply.

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Additional regarding relief from the automatic stay to pursue litigation

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). "'Cause' is determined on a case-by-case

**United States Bankruptcy Court
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CONT... Jose Nelson Solis Broce

Chapter 13

basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that the foregoing factors, or close analogs to them, favor granting relief from the automatic stay. In particular: nonbankruptcy Courts can preside over criminal matters, which this Bankruptcy Court cannot do; the nonbankruptcy proceeding allegedly involves the debtor as a fiduciary; there is a very powerful public interest in pursuing restitution for victims as well as civil and criminal remedies; the nonbankruptcy matters have progressed substantially; judicial economy would be served by granting relief from the automatic stay - it

**United States Bankruptcy Court
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Thursday, August 15, 2019

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CONT... **Jose Nelson Solis Broce**

Chapter 13

makes sense to determine if any assets truly belong to Debtor, or instead if they are fraud victims' money, before it can be determined what, if anything, is part of any bankruptcy estate; the motion papers establish bad faith and an abuse of the bankruptcy system; and the balance of hurt tips sharply in favor of pursuing restitution and other remedies for alleged crime victims.

Dismissal, with a bar

"Cause" for dismissal has been established, within the meaning of 11 U.S.C. 1307(c), based on Debtor's failure to notify the prosecutors of the bankruptcy case, failure to list assets on the bankruptcy schedules, and other acts and omissions set forth in the motion papers. In addition, the tentative ruling is that the pattern and gravity of such acts and omissions establishes that they constitute a "willful" failure to appear in proper prosecution of this case within the meaning of 11 U.S.C. 109(g)(1). Accordingly, the tentative ruling is to dismiss this case with a 180-day bar against being a debtor in bankruptcy.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Nelson Solis Broce

Represented By
Lionel E Giron

Movant(s):

The People of the State of California

Represented By
Wendy A Loo

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

8:30 AM

2:16-26841 Camerina Gomez

Chapter 13

#14.00 Hrg re: Motion for order authorizing debtor to use estate property to employ Samantha Hughes as special counsel and to pay other expenses related to a parentage action

Docket 58

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in this Court's Order Granting Application And Setting Hearing On Shortened Notice (dkt. 60).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Camerina Gomez

Represented By
David A Tilem

Movant(s):

Camerina Gomez

Represented By
David A Tilem

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, August 15, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:17-22189 Ana Rosa Silva

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA, N.A.
vs
DEBTOR

Docket 57

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

CONT... Ana Rosa Silva

Chapter 13

Party Information

Debtor(s):

Ana Rosa Silva

Represented By
George J Paukert

Movant(s):

Bank of America N.A.

Represented By
Madison C Wilson
Can Guner
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Hrg re: Motion for relief from stay [RP]

ANEA ENTERPRISES, LLC
vs
DEBTOR

Docket 906

Tentative Ruling:

Deny for the reasons stated in the Unsecured Creditors Committee's opposition (dkt. 913). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

ANEA ENTERPRISES, LLC

Represented By
Leonardo Drubach

**United States Bankruptcy Court
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

CONT... Dana Hollister

Chapter 11

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:18-12716 Peta Elizabeth Gorshel

Chapter 7

#3.00 Hrg re: Motion for relief from stay [RP]

DLJ MORTGAGE CAPITAL, INC.
vs
DEBTOR

Docket 141

Tentative Ruling:

Grant in part, by modifying and conditioning, and partially terminating, the automatic stay as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Order granting Strategic Acquisitions Inc. ("SAI") relief from the automatic stay (dkt. 128), SAI's notice of joinder in Movant's motion (dkt. 144), the Chapter 7 Trustee's limited opposition (dkt. 146), SAI's reply (dkt. 147), and Debtor's joinder in the Trustee's limited opposition (dkt. 151).

Limited relief from automatic stay

Under 11 U.S.C. 362(d)(1), terminate the automatic stay as to sending the required notices under Cal. Civ. Code 2966 and recording a Notice of Default and Election to Sell under Deed of Trust, but not to as to recording a Notice of Trustee's Sale or holding a sale without a further order of this Court granting relief from the automatic stay to do those things. The tentative ruling is (a) to hold a continued hearing on 12/17/19 at 10:00 a.m., (b) set a deadline of 11/26/19 for the Trustee to file and serve, on Movant and all persons who have filed responses to the motion, a status report on the contemplated sale of the property, (c) set a deadline of 12/3/19 for Movant to file any supplemental brief in support of the Motion, and (d) set a deadline of 12/10/19 for any responses by other parties in interest to Trustee's and

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CONT... Peta Elizabeth Gorshel

Chapter 7

Movant's supplemental papers.

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
David S Hagen
Christian T Kim

Movant(s):

DLJ Mortgage Capital, Inc.

Represented By
Kelly M Raftery
Merdaud Jafarnia

Trustee(s):

Carolyn A Dye (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
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10:00 AM

CONT... Peta Elizabeth Gorshel

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:18-14365 Robert Samson Fear

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK, NA
vs
DEBTOR

Docket 27

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Robert Samson Fear Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Robert Samson Fear

Represented By
Onyinye N Anyama

Movant(s):

U.S. BANK, NA AS LEGAL TITLE

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-10241 Maria F Gayman

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 34

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the Debtor's late filed opposition (dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maria F Gayman

Represented By
Michael E Clark

Movant(s):

Wells Fargo Bank, N.A. successor

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#6.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOCIATION
VS
DEBTOR

Docket 78

*** VACATED *** REASON: Continue to 9/10/19 at 10:00 a.m. for re-lodging of the parties' proposed APO (the lodged order referred to a missing attachment so it was rejected)

Tentative Ruling:

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia
Todd S Garan

**United States Bankruptcy Court
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10:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#7.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOCIATION
VS
DEBTOR

Docket 81

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia
Todd S Garan

**United States Bankruptcy Court
Central District of California
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-12886 Steven Massei

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Steven Massei

Chapter 13

Party Information

Debtor(s):

Steven Massei

Pro Se

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-15887 Cheryl Lynn Williams

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

THE ESTATE OF WILLIAM WALTER SELLERS
vs
DEBTOR

Docket 23

Tentative Ruling:

Continue to 9/10/19 at 10:00 a.m., with a deadline of 8/22/19 for Movant (1) to serve Debtor via U.S. mail, as explained below, and (2) to file a proof of service. Appearances are not required on 8/20/19.

Reasons:

The proof of service does not show service on both (i) Debtor's counsel and (ii) Debtor individually ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules. It is true that this double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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10:00 AM

CONT... Cheryl Lynn Williams

Chapter 13

Debtor(s):

Cheryl Lynn Williams

Represented By
Marc A Goldbach

Movant(s):

The Estate of William Walter Sellers

Represented By
Anthony J Rothman Esq

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-18495 James G Maxwell

Chapter 13

#10.00 Hrg re: Motion for relief from stay [RP]

STRATEGIC ACQUISITIONS, INC.
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State

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10:00 AM

CONT...

James G Maxwell

Chapter 13

laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

James G Maxwell

Represented By

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Hearing Room 1545

10:00 AM

CONT... James G Maxwell

Chapter 13

Peter L Nisson

Movant(s):

Magnum Property Investments, LLC

Represented By
Harris L Cohen

Strategic Acquisitions, Inc.

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:18-18929 Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

#11.00 Hrg re: Motion for relief from stay [PP]

STATE BANK OF INDIA (CALIFORNIA)
vs
DEBTOR

Docket 84

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Newark Special Technologies, Inc.

Represented By
Joseph L Pittera

Movant(s):

State Bank of India (California)

Represented By
Christopher D Crowell

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-12322 Tammy Javonillo-Zimmerman

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

CAPITAL ONE AUTO FINANCE
vs
DEBTOR

Docket 32

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to a continuance and/or agree to the terms of an adequate protection order - *e.g.*, an order that sets deadlines relating to the proposed sale of the condominium and payment of movant. See dkt. 35.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tammy Javonillo-Zimmerman

Represented By
Thomas B Ure

Movant(s):

Capital One Auto Finance, a division

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

CONT... Tammy Javonillo-Zimmerman

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-12611 Margarita Dolores Gonzalez

Chapter 13

#13.00 Hrg re: Motion for relief from stay [PP]

HONDA LEASE TRUST
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

CONT... Margarita Dolores Gonzalez Chapter 13
by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Margarita Dolores Gonzalez

Represented By
Michael E Clark

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-12708 Nicole M. Mosman

Chapter 13

#14.00 Hrg re: Motion for relief from stay [PP]

LOGIX FEDERAL CREDIT UNION
vs
DEBTOR

Docket 21

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Hearing Room 1545

10:00 AM

CONT... Nicole M. Mosman

Chapter 13

Party Information

Debtor(s):

Nicole M. Mosman

Represented By
Julie J Villalobos

Movant(s):

LOGIX FEDERAL CREDIT

Represented By
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-15135 Bryan A Kumiyama

Chapter 13

#15.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 33

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

CONT... Bryan A Kumiya **Chapter 13**

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Bryan A Kumiya

Represented By
David S Hagen

Movant(s):

TOYOTA MOTOR CREDIT

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-15612 James Saliba

Chapter 13

#16.00 Hrg re: Motion for relief from stay [PP]

FINANCIAL SERVICES VEHICLE TRUST
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... James Saliba

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

James Saliba

Represented By
Matthew D Resnik

Movant(s):

Financial Services Vehicle Trust

Represented By
Cheryl A Skigin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:16-26335 Rogelio Javier Gonzalez

Chapter 13

#17.00 Hrg re: Motion for relief from stay [UD]

GALOIS GROUP LLC
vs
DEBTOR

Docket 69

Tentative Ruling:

Grant as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

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10:00 AM

CONT... Rogelio Javier Gonzalez Chapter 13

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rogelio Javier Gonzalez

Represented By
Hasmik Jasmine Papian

Movant(s):

Galois Group LLC, A California

Represented By
Marc Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-17956 Deborah Lucinda Lamb

Chapter 13

#18.00 Hrg re: Motion for relief from stay [UD]

LOTUS PROPERTIES SERVICES, INC.
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Deborah Lucinda Lamb

Chapter 13

Party Information

Debtor(s):

Deborah Lucinda Lamb

Represented By
David H Chung

Movant(s):

Lotus Property Services, Inc.

Represented By
Joseph Cruz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-18012 **Najiya Martin**

Chapter 13

#19.00 Hrg re: Motion for relief from stay [UD]

XIANG WANG
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny the request for relief that will remain effective notwithstanding any future bankruptcy case, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons. First, for lack of sufficient cause shown. Second, for lack of service on the persons who executed the documents through which the movant asserts its interest in the property. See LBR 4001-1(c)(1)(B).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

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Hearing Room 1545

10:00 AM

CONT... **Najiya Martin**
(3).

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Najiya Martin

Pro Se

Movant(s):

Xiang Wang

Represented By
Robert A Krasney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-18167 Alan Washington

Chapter 13

#20.00 Hrg re: Motion for relief from stay [UD]

BRECKENRIDGE PROPERTY FUND 2016, LLC
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there is insufficient evidence on the record to convince this Court that Debtor is involved in a scheme to delay, hinder, or defraud the Movant as is required under 362(d)(4) or the other authorities cited above.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

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10:00 AM

CONT... Alan Washington
(3).

Chapter 13

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alan Washington	Pro Se
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Movant(s):

Breckenridge Property Fund 2016,	Represented By Sam Chandra
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-18196 Angel Martinez

Chapter 13

#21.00 Hrg re: Motion for relief from stay [UD]

5800 HAROLD, LLC
vs
DEBTOR

Docket 11

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there is insufficient evidence on the record to convince this Court that Debtor is involved in a scheme to delay, hinder, or defraud the Movant as is required under 362(d)(4) or the other authorities cited above.

Other requested relief

Movant requests in the alternative that this Court dismiss this case with

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CONT... Angel Martinez

Chapter 13

a 180-day bar pursuant to 11 U.S.C. 109(g). See dkt. 11 at PDF p.12. First, such a request is not procedurally proper because all creditors must be served (see Rule 1017(f)(1), Fed. R. Bankr. P.) with sufficient notice and a motion requesting such relief, not a request buried on the 12th page of a notice and motion seeking entirely different relief. Second, the motion papers do not set forth sufficient cause for dismissal of this case with a 180-day bar.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angel Martinez

Pro Se

Movant(s):

5800 Harold, LLC

Represented By
Agop G Arakelian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-18196 Angel Martinez

Chapter 13

#22.00 Hrg re: Motion for relief from stay [UD]

PLAYA VILLAS MALIBU LLC
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant in part, deny in part, and continue in part to 9/10/19 at 10:00 a.m. as set forth below. Appearances are not required on 8/20/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property. Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Lita Logan.

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006)

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10:00 AM

CONT...

Angel Martinez

Chapter 13

but that date is conditioned on the movant (i) serving, on *the day after the current hearing date*, the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service no later than the *next day*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angel Martinez

Pro Se

Movant(s):

Playa Villas Malibu LLC

Represented By
Richard Sontag

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10:00 AM

CONT... Angel Martinez

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-18504 Jose Manuel Carrillo

Chapter 13

#23.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 15

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Jose Manuel Carrillo Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Manuel Carrillo

Represented By
Matthew D Resnik

Movant(s):

Jose Manuel Carrillo

Represented By
Matthew D Resnik
Matthew D Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-18994 Ruthee Short

Chapter 13

#24.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Ruthee Short

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ruthee Short

Represented By
Axel H Richter

Movant(s):

Ruthee Short

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-16458 Joseph Salazar

Chapter 13

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/11/19, 7/9/19

JPMORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 51

Tentative Ruling:

Tentative Ruling for 8/20/19 (same as for 7/9/19 and 6/11/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 53).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joseph Salazar

Represented By
Bryn C Deb
Patricia Rodriguez

Movant(s):

JPMorgan Chase Bank, National

Represented By
Joseph C Delmotte
Arnold L Graff

**United States Bankruptcy Court
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10:00 AM

CONT... Joseph Salazar

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#26.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 07/30/19

THE GOLD 401k PROFIT SHARING PLAN
& TRUST, JONATHAN B. BROOKS, TR.
VS
DEBTOR

Docket 112

***** VACATED *** REASON: Cont. to 9/10/19 at 10:00 a.m. per stipulation
(dkt. 119) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Robert A Brown

Movant(s):

The Gold 401K Profit Sharing Plan

Represented By
Martin W. Phillips

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Asa S Hami

United States Bankruptcy Court
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-10155 Andrew Pantoja Ayala

Chapter 13

#27.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19

US BANK TRUST NA
vs
DEBTOR

Docket 31

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Andrew Pantoja Ayala

Represented By
Axel H Richter

Movant(s):

US Bank Trust NA

Represented By
Kristin A Zilberstein
Lemuel Bryant Jaquez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-15996 Jose Nelson Solis Broce

Chapter 13

#28.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 7/30/19

PASADENA SERVICE FEDERAL CREDIT UNION
VS
DEBTOR

Docket 16

Tentative Ruling:

Tentative Ruling for 8/20/19 (same as for 7/30/19, except reference to interim order):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 20, Movant's reply, dkt. 27, and this Court's interim order, dkt. 37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Nelson Solis Broce

Represented By
Lionel E Giron

Movant(s):

Pasadena Service Federal Credit

Represented By
Amanda N Ferns

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Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

CONT... Jose Nelson Solis Broce

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:17-25631 Uche Pearl Rodriguez

Chapter 13

#29.00 Cont'd hrg re: Motion to Vacate Order Granting Relief from Stay
fr. 7/2/19

Docket 89

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether the Debtor will agree to the terms of an adequate protection order (see Debtor's supplemental declaration, dkt. 102, and Bank of New York Mellon's supplemental response, dkt. 105, p.5:10-16).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/2/19:

Appearances required. The tentative ruling, subject to any oral opposition at the hearing in view of the non-compliance with this Court's order shortening time ("OST," dkt. 90), is that Debtor has made a sufficient *prima facie* showing of the requirements for reconsideration. Therefore the burden is on creditor The Bank of New York Mellon f/k/a The Bank of New York as Trustee for Home Equity Loan Trust 2007-FRE1 (the "Bank") to rebut that showing. See Rule 9024 (Fed. R. Bankr. P.); *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993); *Pincay v. Andrews*, 389 F.3d 853 (9th Cir. 2004).

On the merits, the parties are directed to address (1) whether Bank and/or Bank's servicer (Nationstar/Mr. Cooper) has provided an updated payment history that accounts for the payments that Debtor alleges were not included before (see dkt. 89 at PDF pp. 22-36 and dkt. 95) and (2) whether

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CONT... Uche Pearl Rodriguez Chapter 13

an agreement has been reached for an adequate protection order ("APO").
See dkt. 89 at PDF p.49, *and see generally* dkt. 93-97.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Uche Pearl Rodriguez

Represented By
Levi Reuben Uku

Movant(s):

Uche Pearl Rodriguez

Represented By
Levi Reuben Uku
Levi Reuben Uku
Levi Reuben Uku

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-19155 Rosa M Palacios

Chapter 13

#30.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 7

Tentative Ruling:

Grant, subject to the following conditions, and with a caution do Debtor's counsel to be more careful in future about stating the correct deadline for any opposition papers: (oppositions were due 8/15/19 per this Court's order shortening time, dkt. 10, but a deadline of 8/16/19 is listed in the Motion, dkt. 7, p.2). Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

CONT... Rosa M Palacios

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rosa M Palacios

Represented By
A Mina Tran

Movant(s):

Rosa M Palacios

Represented By
A Mina Tran

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-18998 NAMR1726 LLC

Chapter 11

#31.00 Hrg re: Motion for relief from stay [RP]

MAXIM COMMERCIAL CAPITAL, LLC
vs
DEBTOR

Docket 11

Tentative Ruling:

Appearances required. The tentative ruling, is as set forth in this Court's order shortening time ("OST," dkt. 17), with the following modifications after reviewing Debtor's opposition (dkt. 29) and Movant's reply (dkt. 30).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Tentative ruling from OST (dkt.17, p.3):

The Court's tentative ruling is as follows.

(1) Movant's calculation under 11 U.S.C. § 362(d)(1) is incorrect. In fact, it appears to have a substantial equity cushion providing it with adequate protection.

(2) Movant may be correct that (unlike Movant, which has a substantial equity cushion) Debtor lacks any equity in the property, so the issue under 11 U.S.C. § 362(d)(2) is whether the property is necessary to an effective reorganization.

(3) Apart from the foregoing issues, there is an issue of whether the series of bankruptcy petitions by Debtor and its affiliates have been part of a "scheme" to hinder, delay, or defraud creditors within the meaning of 11 U.S.C. § 362(d)(4), or whether such a scheme or any other abuse of the bankruptcy system constitutes "cause" for relief under 11 U.S.C. § 362(d)(1).

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10:00 AM

CONT... NAMR1726 LLC

Chapter 11

Further tentative rulings:

First, Debtor as an owner of the subject property is competent to opine (through its principal) as to its worth. True, Debtor's opinion might not be the strongest evidence of value - (a) it appears to be inconsistent with the (hearsay) opinions of another owner who previously filed for bankruptcy, and (b) Debtor's ownership might have been part of a scheme of transferring fractional interests to use bankruptcy to delay foreclosure (see below). But Debtor's opinion is still some evidence of value, and Movant offers none. In any event, it appears that the lower range of the values cited by Movant would still leave it with an equity cushion.

Second, Debtor as an owner of the subject property can declare what he has calculated as the approximate balance owed on a senior lien, so as to calculate the approximate equity cushion protecting Movant. Again, that might not be the strongest evidence - presumably the senior lien has sent mortgage statements, and presumably a recent statement would be far better evidence (unless there have been even more recent adjustments to the debt). But given the summary nature of proceedings on relief from the automatic stay, and given the expedited hearing schedule (at Movant's request), this Court is not persuaded to exclude Debtor's evidence of the senior lien amount. The tentative ruling is to overrule Movant's evidentiary objection no.4 (see dkt. 30-1, p.2:20-24), except to the extent of directing Debtor to file a declaration authenticating a recent mortgage statement from the senior lienholder no later than 8/27/19.

Third, the tentative ruling is that, at this very early stage of this case, Debtor has offered sufficient evidence that the subject property is necessary to an effective financial reorganization, whether that consists of refinancing the property, selling it, arranging for an orderly transition of his business to a new location and then surrendering the property, or something else. Of course, the longer this case is pending the greater will be the burden on Debtor to provide specific information and evidence as to precisely how the property remains necessary for an effective reorganization.

Based on the foregoing, the tentative ruling is to deny relief at this time under 11 U.S.C. 362(d)(1) or (d)(2), except for the limited relief provided below.

Fourth, the property appears to have been the subject of multiple bankruptcy petitions that were used to put off foreclosure. The tentative ruling is that this amounts to a scheme to "hinder" or "delay" creditors, under

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CONT... NAMR1726 LLC

Chapter 11

11 U.S.C. 362(d)(4), as well as "cause" under section 362(d)(1). Therefore this Court "shall" grant some form of relief from the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4), but such relief need not include terminating the stay - it can take the form of modifying or conditioning the stay, or some other remedy.

The tentative ruling is that Debtor should have the opportunity to make legitimate use of the bankruptcy system in the present case, but that the property should not continue to be subject to more bankruptcy cases if this one is unsuccessful. Accordingly, the tentative ruling is to issue an order providing that no future bankruptcy case will affect Movant's remedies against the property (subject to the usual limitations under section 362(d)(4), such as requiring Movant to record a copy of the order in the real estate records), but not to terminate or otherwise modify or condition the automatic stay in the present bankruptcy case. In other words, the tentative ruling is to issue an order granting the following relief:

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(1) and (d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

The automatic stay remains in effect in the bankruptcy case of *In re NAMR1726 LLC* (Bankr. C.D. Cal., Case No. 2:19-bk-18998-NB). But if this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

Additional evidentiary objections

The tentative ruling is to sustain Movant's evidentiary objection no. 1 (regarding Mr. Sargsyan's motives for quitclaiming an interest in the property) (dkt. 30-1, p.2:1-7), evidentiary objection no. 2 (regarding the motives for Mr. Sargsyan filing his own prior bankruptcy petition) (dkt. 30-1, p.2:8-11), and evidentiary objection no. 3 (regarding the motives for HDA Trucking, Inc. filing and then seeking dismissal of its own bankruptcy case, and its purported

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CONT... NAMR1726 LLC

Chapter 11

communications with the Office of the U.S. Trustee). The tentative ruling is to overrule the other evidentiary objections (regarding Debtor's own property, debts, tenant, and alleged attempts to refinance and attempted resolution of disputes).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

Maxim Commercial Capital, LLC

Represented By
Andrew K Alper

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-18768 Clara Masihi Der Boghossian

Chapter 13

#32.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 8

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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Central District of California
Los Angeles
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Tuesday, August 20, 2019

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10:00 AM

CONT... Clara Masihi Der Boghossian Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Clara Masihi Der Boghossian

Represented By
Barry E Borowitz

Movant(s):

Clara Masihi Der Boghossian

Represented By
Barry E Borowitz
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:18-24397 Eddie P Lawrence, SR

Chapter 13

#33.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/06/19

BSI FINANCIAL SERVICES
vs
DEBTOR

Docket 54

Tentative Ruling:

Tentative Ruling for 8/20/19:

Deny. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 56), Movant's reply (dkt. 58), Debtor's amended response (dkt. 59), and Proofs of Claim nos. 2 (senior lien) and 4 (Movant).

Analysis:

Debtor has not been making monthly payments to Movant. That is sufficient "cause" for relief from the automatic stay (11 U.S.C. 362(d)(1)) to place the burden on Debtor to overcome that showing of cause (11 U.S.C. 362(g)).

Previously, Debtor focused on his theory that he does not owe Movant any monthly payments because, allegedly, he had some sort of oral agreement with Movant's predecessor in interest (Wells Fargo) for a loan modification, and although that loan modification never went through Debtor asserts that Movant should be bound by it. This Court remains unconvinced by that argument.

Nevertheless, the tentative ruling is that Debtor has met his burden by advancing a new argument in his amended response. Debtor states that

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CONT... Eddie P Lawrence, SR

Chapter 13

Movant is adequately protected because the subject property has a value in excess of \$550,000. Dkt. 59, p.11:22-25.

True, Debtor provides no supporting documentation for the contention that the property is worth \$550,000. But Debtor's schedule A lists the property value at a still substantial value of \$400,000. Dkt. 1, at PDF p.11. For purposes of determining whether Movant is adequately protected, this Court will use the property value of \$400,000.

Movant's proof of claim no. 4 is for \$90,704.81, and according to the relief from stay motion, BSI is owed \$100,533.58 as of June 17, 2019. Dkt. 54 at PDF p.7. That leaves an equity cushion of about \$300,000, or approximately 300% of the debt to Movant.

In the 9th Circuit, a 20% equity cushion has been held to be adequate protection for a secured creditor. *See In re Moller*, 734 F.2d 1396, 1401 (9th Cir. 1984). Therefore the tentative ruling is that, despite Debtor's ongoing failure to make monthly payments to Movant, Movant is adequately protected by a substantial equity cushion. In addition, Debtor appears to have had some preliminary success in his litigation in State Court, so it appears appropriate to let that litigation play out and, meanwhile, hold Movant at bay and let Debtor remain in his home.

Notwithstanding the foregoing, this Court remains highly dubious about Debtor's long-term chances of successfully litigating against Movant. Whatever Movant's predecessor in interest (Wells Fargo) might or might not have done, Debtor has not shown how Movant can be charged with any wrongdoing. This Court cautions Debtor that, if Movant continues to incur attorney fees in the State Court litigation, and if those fees are added to its claim in this bankruptcy case, this Court might have to conclude in future that Movant is no longer protected by an adequate equity cushion, or that the erosion of that cushion combined with other factors would warrant termination of the automatic stay. In other words, Debtor is cautioned that (if this Court adopts this tentative ruling) he will have won the battle but he could lose the war, if he does not resolve the State Court litigation soon.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
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10:00 AM

CONT... Eddie P Lawrence, SR

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 8/6/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Debtor requests a continuance due to plans to be out of the State (dkt. 56), but he does not address why he could not use this Court's procedures for a telephonic appearance (available at www.cacb.uscourts.gov). The tentative ruling is to deny the request for a continuance.

On the merits, Debtor appears to assert that (a) if Movant's predecessor in interest (Wells Fargo) had fulfilled its alleged promises for a loan modification, he could have applied the proceeds from another loan (a Keep Your Home California loan of approximately \$27,381) to paying Movant, (b) then his obligations to movant would be prepaid through sometime in 2020, (c) under a settlement offer from Wells Fargo in the underlying State Court litigation, Movant's loan would be brought current, and (d) Movant should contribute additional funds or concessions toward the settlement. Dkt. 56. Movant essentially replies that it cannot be charged with any alleged wrongdoing by Wells Fargo, and meanwhile it is not being paid. Dkt. 58.

The tentative ruling is that Debtor has not established why any alleged wrongdoing by Wells Fargo could be charged against Movant, nor has Debtor established any wrongdoing by Movant itself, or any other reason why Movant should be estopped to assert Debtor's failure to pay monthly mortgage payments. In other words, it is up to Debtor and Wells Fargo either to settle their claims or not, and meanwhile, the question for purposes of the present motion is whether Debtor's failure to make monthly payments to Movant is or is not "cause" for relief from the automatic stay (11 U.S.C. 362(d)(1)).

On the one hand, non-payment is usually considered to be such "cause" (even without evidence that the collateral is declining in value) because of the "time value" of money and other harms to creditors from non-payment. On the other hand, it appears that the defaults in payments to Movant might be cured, either (i) under the settlement communication attached to Debtor's papers, if Debtor commences payments as of 9/15/19, or (ii) through some other voluntary or involuntary payment by Wells Fargo. See

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CONT... Eddie P Lawrence, SR

Chapter 13

dkt. 56, exhibit (last page). (This Court is considering that settlement communication only for the very limited purpose of noting that there are scenarios in which someone will be paying Movant.)

The tentative ruling is that if either Debtor or Wells Fargo do not cure the postpetition non-payments to Movant then Movant will be entitled to some form of relief from the automatic stay. If that results in a loss of Debtor's home, and if Debtor can establish that this is Wells Fargo's or Movant's fault, then he can seek damages from them in State Court. Meanwhile, Movant cannot be held in limbo indefinitely because the disputes between Debtor and Wells Fargo have not been resolved.

The parties should be prepared to address the foregoing, and whether a short continuance would be appropriate, to provide an opportunity to resolve these issues and have someone (either Debtor or Wells Fargo) pay Movant.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Eddie P Lawrence SR

Pro Se

Movant(s):

BSI Financial Services the duly

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-19123 Larry Carl Dennis

Chapter 13

#34.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 9

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
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Tuesday, August 20, 2019

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10:00 AM

CONT... Larry Carl Dennis

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Larry Carl Dennis

Represented By
Nima S Vokshori

Movant(s):

Larry Carl Dennis

Represented By
Nima S Vokshori

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 20, 2019

Hearing Room 1545

10:00 AM

2:19-19142 Lisa Marie Battiest

Chapter 13

#35.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 13

Tentative Ruling:

Appearances required.

The parties are directed to address:

- (1) the opposition of CAM XIV Trust ("Lender") (dkt.21);
- (2) any oral opposition at the hearing;
- (3) what remedies this Court should impose for the incorrect notices sent by Debtor's counsel, Mr. Cort, as explained below; and
- (4) this Court's standard conditions, in the event this Court is persuaded to grant the motion in whole or in part.

(1) Lender's opposition (dkt.21)

Lender's opposition argues (a) that this is Debtor's 4th bankruptcy in 6 years; (b) that Debtor has fallen further behind: from \$9,620.86 at the time when her 1st bankruptcy case was filed to \$53,604.57 now; (c) that there is a presumption of a lack of good faith - rebuttable only by clear and convincing evidence - because Debtor has not established any substantial change in circumstance since the dismissal of her most recent case, and because of Debtor's history of not being able to make the payments she has promised; and (d) that it would be inequitable to force Lender into what is, in essence, a 12 year plan of reorganization. Lender asserts that the total payoff amount owing as of the petition date is approximately \$430,114.31.

This Court notes that Debtor's Bankruptcy Schedule D (dkt.1) lists a secured debt (in the name of BSI Financial Services, which this Court presumes is Lender's servicer) of \$454,053.83 as against an alleged property value of \$520,000.00. That equates to an equity cushion of approximately 13%. That is a thin equity cushion, taking into account the typical presumption of 8% costs of sale.

This Court also notes that Debtor's proposed chapter 13 plan (dkt. 2, p.6) lists arrears of \$27,183.65, which is substantially less than the

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CONT... Lisa Marie Battiest

Chapter 13

\$53,604.57 listed by Lender.

Can Debtor afford to retain this property? If not, would Debtor's consent to a deadline to sell or refinance the property be sufficient to establish good faith? Would any such consent need to include an agreement that no future bankruptcy filings would affect Lender's rights against this property?

(2) Oral opposition at the hearing

This Court's order shortening time (the "OST," dkt. 16, pp.2-3) provides that any opposition papers must be filed and served no later than 8/15/19. But Mr. Cort has instead notified creditors repeatedly that they may present any opposition orally at the hearing.

Specifically, Mr. Cort prepared the following two notices. First, before the OST was issued Debtor's motion presumed, and it tells creditors, that any opposition may be made orally at the hearing (rather than using the pre-printed option on the form to state that an application for an OST has been filed, and that a supplemental notice will inform creditors of the deadline for any opposition). Dkt.13, pp.1&3.

Second, although Mr. Cort could have cured this problem by providing a corrected notice after the OST was issued, instead he provided a notice (dkt. 18, p.1) that repeats (erroneously) that any opposition may be made orally at the hearing.

For the foregoing reasons, despite the 8/15/19 deadline for opposition papers in the OSC, all parties in interest will be permitted to present any opposition orally at the hearing.

(3) Concerns about Mr. Cort's billing, and remedies

Because of Mr. Cort's two incorrect notices, he has assured that he has to appear at the hearing to see if there is any oral opposition to the motion. In contrast, if he had provided notice of this Court's 8/15/19 deadline for any opposition papers, and if no opposition had been filed, then (under this Court's typical procedures and standard tentative ruling) he would not have had to appear.

In other words, Mr. Cort has transformed a process that would not have required him to charge attorney fees (for appearing at the hearing) into a process that guarantees he will get those fees (were it not for this tentative ruling prohibiting him from charging those fees). That is "churning" this

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CONT... Lisa Marie Battiest

Chapter 13

bankruptcy case: he is charging unnecessary fees.

This Court takes judicial notice that the same problem has arisen frequently in cases handled by Mr. Cort. This is a serious problem.

"Churning" is a particular danger in chapter 13 cases because the client (the debtor) has to pay all disposable income to the Chapter 13 Trustee regardless what portion of those funds go to the debtor's attorney instead of paying creditors. This means that debtors have a reduced incentive (if any) to be concerned about unnecessary services, such as those Mr. Cort is providing by appearing at a hearing when no appearance was needed.

Nor is it obvious to anyone else involved in the process (the Chapter 13 Trustee or creditors) that an appearance at any given hearing was unnecessary. Therefore, Mr. Cort's apparent practice of churning his chapter 13 cases could go unnoticed (were it not for this Court having raised these concerns on its own initiative, per 11 U.S.C. 105).

For these reasons, the tentative ruling is to issue an OSC directing Mr. Cort to show cause why this Court should not impose a restriction, in all of his cases, that he must not charge fees for any appearance, at any hearing, by any attorney for his client, unless and until he affirmatively establishes that he could not have handled the matter without an appearance. The tentative ruling is to set a hearing on that OSC on 9/19/19 at 8:30 a.m., with a deadline of 9/5/19 to file and serve on the Chapter 13 Trustee and the United States Trustee any response by Mr. Cort (or by any other party in interest).

After the hearing date this Court will prepare the OSC.

(4) Limitations on granting the motion

The tentative ruling, if the motion is granted in whole or in part (as to creditors other than Lender, or as to Lender), is to include the following language in that order. After the hearing date this Court will prepare an order.

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may

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present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Lisa Marie Battiest

Represented By
William G Cort

Movant(s):

Lisa Marie Battiest

Represented By
William G Cort

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-19017 Edmund Lincoln Anderson

Chapter 13

#36.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 19

Tentative Ruling:

Appearances required. There is no tentative ruling, but this Court will hear any opposition and any reply orally at the hearing, pursuant to this Court's oral directions provisionally shortening time, on the request of Debtor's counsel in a telephone call to chambers. See LBR 1001-1(d) and 9075-1(a). In addition, the parties should be prepared to address the following issues:

(1) Self-created emergency?

Why was the motion not filed on or shortly after the petition date of 8/1/19, so that it could have been heard on 14 days' notice, pursuant to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)?

(2) Adequate service?

Are the addresses that Debtor used for service adequate? See dkt. 19 (last 3 pages) and see Rules 7004(b)(3) & 9014(b) (Fed. R. Bankr. P.).

(3) Can Debtor show good faith?

Can Debtor can establish good faith in the face of his history of unauthorized transfers and multiple bankruptcies affecting various properties in which Debtor claims an interest. See *In re Anderson* (Bankr. C.D. Cal., Case No. 2:18-bk-20990-SK, dkt. no. 31, at PDF pp.6-7, listing 10 bankruptcy cases). Will Debtor consent to some form of restrictions in this case that might establish that, despite such history, his is proceeding in good faith? If so, what restrictions would be appropriate?

If this Court is persuaded to grant relief, the tentative ruling is that this Court will prepare the order and it will include the following provisions (Judge Bason's standard provisions):

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was

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Chapter 13

not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Nima S Vokshori

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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11:00 AM

2:18-24361 Michael Patrick Riley and Marian Rose Riley

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application of fees and expenses
[Elissa Miller, Trustee]

Docket 19

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$1,205.64 in fees, and \$16.15 in expenses, for a total of \$1,221.79. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michael Patrick Riley

Represented By
Sundee M Teeple

Joint Debtor(s):

Marian Rose Riley

Represented By
Sundee M Teeple

Trustee(s):

Elissa Miller (TR)

Pro Se

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Hearing Room 1545

11:00 AM

2:18-24507 Rima Adam Nano

Chapter 7

Adv#: 2:19-01181 Elissa D. Miller, Chapter 7 Trustee v. NANO

- #2.00** Status conference re: Complaint for (1) Avoidance of actual fraudulent transfer [11 U.S.C. section 548(a)(1)(A)]; (2) Avoidance of constructive fraudulent transfer [11 U.S.C. section 548(a)(1)(B)]; (3) Recovery of avoided transfer [11 U.S.C. section 550]; (4) Declaratory relief; and (5) Turnover [11 U.S.C. section 542]

Docket 1

Tentative Ruling:

Continue to 10/29/19 at 11:00 a.m. at the requested of the parties (see adv. dkt. 6). Appearances are not required on 8/20/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rima Adam Nano

Represented By
G Marshall Hann

Defendant(s):

ADMON NANO

Represented By
Gary A Starre

Plaintiff(s):

Elissa D. Miller, Chapter 7 Trustee

Represented By
Jeremy Faith
Noreen A Madoyan

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CONT... Rima Adam Nano

Chapter 7

Trustee(s):

Elissa Miller (TR)

Represented By
Noreen A Madoyan

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11:00 AM

2:16-21559 David MacMillan

Chapter 7

#3.00 Hrg re: First interim application for fees and reimbursement of costs of Dumas & Kim, APC., counsl for trustee

Docket 394

*** VACATED *** REASON: The matter is scheduled to be heard at a different time. See #10 at 2pm

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

#4.00 Hrg re: Application for payment of interim fees
and/or expenses for LEA Accountancy LLP

Docket 398

*** VACATED *** REASON: The matter is scheduled to be heard at a
different time. See #9 at 2pm

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Movant(s):

LEA Accountancy LLP

Pro Se

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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11:00 AM

2:16-24753 Antoinette Elisa Galvan

Chapter 7

#5.00 Hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order: (A) Authorizing Private Sale of Intellectual Property Assets Outside the Ordinary Course of Business Free and Clear of All Claims, Liens, Encumbrances, and Interests; (B) For Determination of Good Faith Purchaser Under Section 363(m); (C) Approving Assignment of Intellectual Property; and (D) Waiving Fourteen Day Stay Under Rule 6004(h)

Docket 154

***** VACATED *** REASON: Continued to 09/19/19 at 11:00 a.m. per notice of continuance filed 08/09/19 - docket entry #161**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

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2:16-24755 Gloria Elisa Galvan

Chapter 13

#6.00 Hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order; (A) Authorizing Private Sale of Intellectual Property Assets Outside the Ordinary Course of Business Free and Clear of All Claims, Liens, Encumbrances, and Interests; (B) For Determination of Good Faith Purchaser Under Section 363(m); (C) Approving Assignment of Intellectual Property; and (D) Waiving Fourteen Day Stay Under Rule 6004(h)

Docket 191

***** VACATED *** REASON: Continued to 09/19/19 at 11:00 a.m. per notice filed 08/09/19 - docket entry #202**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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11:00 AM

2:14-30543 Erlinda Grace Tan Elemen

Chapter 7

Adv#: 2:19-01182 Elemen v. Trinity Financial Services LLC et al

#7.00 Hrg re: Defendant Trinity Financial Services, LLC's
Motion to dismiss adversary proceeding

Docket 3

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8,
8/20/19 at 11:00 a.m.)

Party Information

Debtor(s):

Erlinda Grace Tan Elemen

Represented By
Emmanuel S Vargas

Defendant(s):

Trinity Financial Services LLC

Represented By
Matthew S Henderson

Special Default Services, Inc.

Pro Se

DOES 1-10

Pro Se

Movant(s):

Trinity Financial Services LLC

Represented By
Matthew S Henderson

Plaintiff(s):

Erlinda Grace Tan Elemen

Pro Se

Trustee(s):

Peter J Mastan (TR)

Pro Se

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11:00 AM

2:14-30543 Erlinda Grace Tan Elemen

Chapter 7

Adv#: 2:19-01182 Elemen v. Trinity Financial Services LLC et al

#8.00 Status conference re: Complaint for Wrongful foreclosure, conversion, quiet, title, violation the discharge order

Docket 1

Tentative Ruling:

Appearances required.

Current issues

(a) No service of summons and complaint

Plaintiff/Debtor (acting without an attorney) has not filed any proof of service of process of the summons and the complaint. Is Plaintiff/Debtor capable of prosecuting this adversary proceeding?

(b) No service of motion to dismiss ("MTD," adv. dkt. 3, 5)

Defendant/Creditor has filed its MTD papers, but it alleges that it has not served those papers on Plaintiff/Debtor because the Complaint does not include her current address and she no longer resides at her prior address, so its intent is to serve Plaintiff/Debtor in person, at this status conference. See adv.dkt.6.

The tentative ruling, if such service is accomplished, is to continue the hearing on the MTD to 9/24/19 at 2:00 p.m. (with the usual deadlines for any opposition and reply papers). If Plaintiff/Debtor fails to appear, the tentative ruling is to dismiss this adversary proceeding for lack of prosecution.

(c) No joint Status Report

Plaintiff/Debtor has failed to file any status report. Defendant/Creditor has filed a unilateral status report, which is not on the official form. If this adversary proceeding is not dismissed, the parties are directed to use the local form.

(d) Merits of MTD

Defendant/Creditor relies on an unlawful detainer judgment in arguing for (i) abstention and (ii) application of the "*Rooker-Feldman* doctrine." But unlawful detainer proceedings are summary in nature. See, e.g., *S.P. Growers Ass'n v. Rodriguez*, 17 Cal.3d 71 (1976). Defendant/Creditor has

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CONT... Erlinda Grace Tan Elemen

Chapter 7

not cited any authority that abstention is appropriate for unlawful detainer proceedings - could the merits of Plaintiff/Debtor's claims be litigated in an unlawful detainer proceeding? Nor has Defendant/Creditor cited any authority that the *Rooker-Feldman* doctrine can rest on the foundation of an unlawful detainer proceeding.

This Court expresses no opinion at this point on the remaining arguments in the MTD. Any such issues can be addressed at the continued hearing, after it is properly served, and after reviewing any opposition by Plaintiff/Debtor and any reply by Defendant/Creditor.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Erlinda Grace Tan Elemen

Represented By
Emmanuel S Vargas

Defendant(s):

Trinity Financial Services LLC

Represented By
Matthew S Henderson

Special Default Services, Inc.

Pro Se

DOES 1-10

Pro Se

Plaintiff(s):

Erlinda Grace Tan Elemen

Pro Se

Trustee(s):

Peter J Mastan (TR)

Pro Se

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11:00 AM

2:18-15867 Andrew Mark Anderson

Chapter 13

Adv#: 2:18-01348 Strategic Funding Source, Inc. v. Anderson

#9.00 Cont'd Status Conference re: Complaint to Determine
Non-Dischargeability of Debt
fr. 01/08/19, 3/26/19, 05/21/19

Docket 1

***** VACATED *** REASON: Stipulated judgment entered (adv. dkt. 16).**

Tentative Ruling:

Party Information

Debtor(s):

Andrew Mark Anderson

Represented By
D Justin Harelik

Defendant(s):

Andrew Mark Anderson

Represented By
D Justin Harelik

Plaintiff(s):

Strategic Funding Source, Inc.

Represented By
Jeannie Kim
Brian T Harvey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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11:00 AM

2:18-24615 Maricela Correa Contreras

Chapter 13

Adv#: 2:19-01087 Rizo v. Contreras

#10.00 Cont'd Status Conference re: Complaint
to Determine Dischargeability
fr. 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Preliminary issues

(a) The parties have not filed a joint status report. Why?
(b) This Court's tentative ruling for 7/30/19 was to set a continued status conference to give the parties time to stipulate to a judgment on this complaint and lodge a proposed order approving the same. As of the date of this tentative ruling, no such stipulation and order have been filed. Why?

(2) Deadlines: This adversary proceeding has been pending since 3/26/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 9/10/19

Continued status conference: 9/24/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD
(for the format of exhibits and other trial procedures, please see Judge

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Chapter 13

Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the filed documents and records in this adversary proceeding. The parties should be prepared to address the following issues.

Preliminary issues

- (a) The parties have not filed a joint status report. Why?
- (b) In a prior case (2:11-bk-42321-SK), the parties stipulated to, and the Bankruptcy Court ordered, nondischargeability under 11 U.S.C. 523(a)(4). See adv. dkt. 1, Ex.B. Debtor's Plan (dkt. 24) provides for 100% dividend, and was confirmed (dkt. 29). Based on the foregoing, is there any reason why the parties will not stipulate to a judgment on this complaint (per 11 U.S.C. 1328(a)(4))? The tentative ruling is to set a continued status conference, as set forth below, to give the parties time to file such a stipulation and lodge a proposed order approving the same.

The following are Judge Bason's standard requirements for status conferences (except that that provisions regarding mediation have been omitted because they appear to be unnecessary). (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

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CONT... Maricela Correa Contreras

Chapter 13

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Deadlines: This adversary proceeding has been pending since 3/26/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 8/13/19

Continued status conference: 8/20/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maricela Correa Contreras

Represented By
Sunita N Sood

Defendant(s):

Maricela Correa Contreras

Represented By
Sunita N Sood

Plaintiff(s):

Laura Rizo

Represented By
Chad M Gordon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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11:00 AM

2:19-16732 Rodney Phillip Walker

Chapter 7

Adv#: 2:19-01239 Estate of Alfredo William Walker v. Walker

#11.00 Cont'd Order to show cause why removed
proceeding should not be remanded
fr. 08/06/19

Docket 2

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances required. The tentative ruling, subject to hearing argument from the Chapter 7 Trustee and any other party in interest with standing, is to abstain and remand this case, for the reasons stated in this Court's Order to Show Cause ("OSC," adv. dkt. 2).

First, Debtor lacks standing and is no longer the real party in interest. As the OSC points out, Debtor chose to convert this case to chapter 7, so now his chapter 7 trustee has exclusive control over all of his claims.

Second, Debtor is not persuasive in his argument that that this Court lacks "jurisdiction" to issue any final ruling on the abstention and remand issues, and must instead forward any recommended disposition to the District Court (adv. dkt. 8, p.5, n.3). Debtor confuses jurisdiction with authority, and this Bankruptcy Court has both jurisdiction and authority to issue final orders on the matters presently before this Court: the decisions whether to abstain and remand are both statutorily and Constitutionally "core," and even if they were not this Court can issue final rulings because those matters can be addressed without an evidentiary hearing. See 28 U.S.C. 157(b)(2)(A)&(O); *and see In re AWTR Liquidation Inc.*, 547 B.R. 831 (2016). (Indeed, Debtor himself asserts that this entire proceeding is a "core" proceeding, dkt. 8, p.15:26-27, p.25:21, etc. - this Court does not agree that the entire proceeding is "core," but this part of it certainly is.)

Third, Debtor's remaining arguments are unpersuasive. Based on the record before this Court, as summarized in the OSC, the tentative ruling is to find that there is ample cause to abstain and remand. Debtor has been involved in orchestrating repeated bankruptcy cases and repeated removals of the probate proceedings, without adequate notice to other parties to the probate proceeding, and all for the purposes of (i) later asserting that any

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CONT... Rodney Phillip Walker

Chapter 7

proceedings before the Probate Court have been void, and (ii) otherwise hindering and delaying the probate proceedings. This constitutes bad faith, an abuse of the bankruptcy system, and more than sufficient grounds to abstain and remand under the authorities cited in the OSC.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodney Phillip Walker	Pro Se
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Defendant(s):

Greg Walker	Pro Se
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Plaintiff(s):

Estate of Alfredo William Walker	Pro Se
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Trustee(s):

Heide Kurtz (TR)	Pro Se
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Hearing Room 1545

1:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#1.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by debtor herself.

(1) Current issues

(a) Airbnb

Debtor's budget motion (dkt. 37, Ex.A, p.2) reveals that, although the Sweetzer property is "listed to be sold," meanwhile "Debtor intends to rent [that property] as an Airbnb." The tentative ruling is that this is a transaction out of the ordinary course, which requires notice, an opportunity for a hearing, and approval by this Court. 11 U.S.C. 363(b). Has Debtor already acted on this intent, without such approval?

In addition, this Court is concerned about (i) whether Airbnb rental would be in compliance with any local permitting and zoning requirements and is otherwise permissible, (ii) whether that proposed use might expose the bankruptcy estate to liabilities, (iii) whether there is adequate insurance for that use of the property, and (iv) whether the proposed sale of the property is consistent with any agreement with Airbnb.

(b) Real estate agent.

The employment application (dkt. 26, p.4:1-4) states that Agent has agreed to disclose to Debtor [i.e., only to Debtor? how about disclosure to creditors, the US Trustee, and this Court?] any agency relationship Agent has with other parties ("Third Parties") that may be part of a real estate transaction for the sale of the Real Property [i.e., dual agency? that is prohibited by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)] as well as the amount of any compensation Agent receives from Agent's relationship with any Third Parties [i.e., splitting the commission with a cooperating agent from a different real estate agency? or something else?].

What does the quoted text mean? This Court's questions are set forth in the emphasized, bracketed text above.

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CONT... Ashley Susan Aarons

Chapter 11

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

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1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#2.00 Status Conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Service of order setting principal status conference

This Court's order setting principal status conference (dkt. 2) required Debtor to serve this order on all parties in interest and file a proof of service at least 14 days before the principal status conference. As of the drafting of this tentative ruling, the docket does not reflect such service. Was the order served?

(b) Missing budget motion

Debtor's status report states that Debtor has not yet filed a budget motion but "will do so if necessary." Dkt. 11 at p.3. Per the posted Procedures of Judge Bason (available at cacb.uscourts.gov), budget motions are required in all Chapter 11 cases.

(c) Cash collateral

Debtor indicates that it will meet and confer with its lender re cash collateral. Dkt. 11 at p.3. What is the status of those negotiations?

Pending lender approval, how has Debtor continued to operate its business since filing? Has Debtor been using cash collateral without authorization? Has Debtor been holding the rent money it has received in a separate account?

(d) Interim arbitration award

Debtor should be prepared to apprise the court of the details surrounding the interim arbitration award, including the nature of the dispute, how Debtor intends to contest the award, and what approach to the award is in the best interests of creditors.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (DO NOT SERVE notice yet - court will prepare

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CONT...

FAME Assistance Corporation, a Non Profit Corp.
an order after the status conference.

Chapter 11

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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2:16-15136 Glynder Lucas Striggs

Chapter 11

#3.00 Hrg re: U.S. Trustee Motion to dismiss or convert case

Docket 183

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 17, 8/20/19 at 1:00 p.m.)

Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

Movant(s):

United States Trustee (LA)

Represented By
Dare Law
Kelly L Morrison

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1:00 PM

2:14-24085 Juvernaldo Cordon Cruz and BSI Financial Services, Inc.

Chapter 11

#4.00 Hrg re: Motion For Sanctions against Bank of America, N.A.
for violation of court order

Docket 197

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See # 4.1 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Movant(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

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2:19-16482 Unified Protective Services, Inc.

Chapter 11

#5.00 Hrg re: First interim application for compensation
and reimbursement of expenses of Michael Jay Berger

Docket 37

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 18,
8/20/19 at 1:00 p.m.)

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

Movant(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:19-16482 Unified Protective Services, Inc.

Chapter 11

#6.00 Hrg re: Debtor's Motion for an Order Waiving the Requirement to File the Report of Financial Information Under Bankruptcy Rule 2015.3

Docket 40

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 18, 8/20/19 at 1:00 p.m.)

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

Movant(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:19-16482 Unified Protective Services, Inc.

Chapter 11

#7.00 Hrg re: Debtor's Motion For Retroactive Approval
Authorizing Payment Of Wages And Related Expenses

Docket 41

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 18,
8/20/19 at 1:00 p.m.)

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

Movant(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#8.00 Hrg re: Motion in individual chapter 11 case
for order authorizing use of cash collateral

Docket 52

Tentative Ruling:

Grant the motion (docket no. 52), subject to the conditions set forth below.
Appearances required.

Judge Bason's standard conditions for use of cash collateral and/or
postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

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Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition

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Chapter 11

date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron

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CONT... Angel Rodriguez Lara and Angelica Soto Calva
Joanne P Sanchez

Chapter 11

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

Movant(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

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2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#9.00 Hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115

Docket 53

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 11, 8/20/19 at 1:00 p.m.)

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

Movant(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

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2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#10.00 Hrg re: Motion in Individual Ch 11 Case for Order Employing Professional (LBR 2014-1): Law Offices of Lionel E. Giron as General Insolvency Counsel

Docket 50

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 11, 8/20/19 at 1:00 p.m.)

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

Movant(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

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2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#11.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19

Docket 42

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed orders: Debtor is directed to lodge proposed orders on the following matters via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(1) Current issues

(a) Cash collateral motion (dkt. 52)

Please see the tentative ruling for the cash collateral motion (calendar no.8, 8/20/19 at 1:00 p.m.). Why was this motion not set for hearing sooner? Were Debtors using cash collateral without authorization to do so?

(b) Budget motion (dkt. 53)

First, why have Debtors ignored the instructions in line 8a of Bankruptcy Schedule I to attach, for each rental property, a breakdown of gross receipts, expenses, and net revenues? Second, based on the listed \$1600 of income (Schedule I, line 8a) and over \$2,400 of expenses (Schedule J, line 20), how is it in the best interests of creditors to retain the rental property? Third, how can creditors and this Court and rely on Debtor's figures and their proposed attorneys' review of their motions when, contrary to the dollar amounts listed in the budget motion, Debtor reports \$2,700 of income and \$2,637.98 of expenses for the rental property in the cash collateral motion (dkt. 52, p.5)?

(c) Employment application, Law Offices of Lionel E. Giron (dkt. 50), United States Trustee's ("UST") opposition (dkt. 61), and Mr. Giron's reply

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(dkt. 65)

Chapter 11

There is no tentative ruling, but the parties should be prepared to address the issues raised by the UST's opposition (dkt. 61) and Mr. Giron's reply (dkt. 65).

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

- (a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)
 - (b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report is required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

- (a) "First Day Motions" (dkt. 52, 53)

Debtors originally self-calendared their cash collateral motion (dkt. 52) and their budget motion (dkt. 53) for 8/21/19, which is not a day available for self-calendaring. In addition, Debtor's case was converted on 6/18/19 (dkt. 38), which is two months prior to the purported hearing - how could Debtor set these "first day" matters so far out? How can Debtors use cash, which might be subject to asserted liens, without an order approving use of cash

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collateral? See 11 U.S.C. 363(c). Have Debtors been engaging in transactions out of the "ordinary course" (11 U.S.C. 363(b)) - guarding against such unauthorized transactions is the reason why Judge Bason requires budget motions?

(b) Employment application, Law Offices of Lionel E. Giron (dkt. 50)

The United States Trustee has objected to the employment of the Law Offices of Lionel E. Giron (dkt. 61). The tentative ruling is to set the application for hearing at the same time as the continued status conference below.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 10/15/19 (DO NOT SERVE notice yet - *court will prepare an order after the status conference*).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/20/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By

Lionel E Giron

Joanne P Sanchez

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Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

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2:15-11029 R&J Limited Partnership and JRJ Limited Partnership

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/03/15, 03/31/15, 04/28/15, 05/26/15, 06/09/15,
07/07/15, 07/28/15, 09/01/15, 09/22/15, 11/17/15, 12/15/15,
01/19/16, 02/23/16, 03/22/16, 05/31/16, 07/19/16, 09/27/16,
11/29/16, 01/10/17, 04/25/17, 06/20/17, 10/17/17, 01/30/18,
04/10/18, 05/08/18, 06/07/18, 07/10/18, 08/07/18, 9/4/18,
10/9/18, 11/6/18, 01/08/19, 3/26/19, 05/21/19

Docket 9

Tentative Ruling:

Tentative Ruling for 8/20/19:

Continue to 11/26/19 at 1:00 p.m., with a *brief* status report due 11/12/19.
Appearances are not required on 8/20/19.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Reports (dkt. 374, 376) and Status Report (dkt. 377). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances required.

(1) Sale motion (dkt. 352)

Grant, subject to overbids at the hearing, and also subject to any Court-approved settlement (see dkt. 364) between Debtor and Bayview Loan Servicing, LLC ("Bayview"), for the reasons set forth below.

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CONT...

R&J Limited Partnership and JRJ Limited Partnership

Chapter 11

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

Analysis

(a) Broker's dual representation

Debtor's motion provides that Mr. Renteria represents both the proposed buyer and the seller, the Debtor, in this transaction. Dkt. 352, at PDF p.18:2-5. The tentative ruling is that, although Judge Bason normally disapproves dual agency, that restriction will not apply to the post-confirmation reorganized Debtor.

(b) Sale free and clear

Section 363(f) provides that

The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

The tentative ruling is that the property may be sold free and clear of the following interests in the property:

(i) Allco Enterprises Inc. dba Allco Leasing's lien pursuant to section 363(f)(4), because its U.C.C.-2 continuation statement has expired (dkt. 352, at PDF pp. 21-22).

(ii) Bayview Loan Servicing, LLC's lien pursuant to section 363(f) (2) in view of the parties apparent settlement (dkt. 364). (Unless the settlement falls through, this Court intends to express no view on whether Bayview's interest is in bona fide dispute within the meaning of 11 U.S.C. 363(f)(4) (see dkt. 352, at PDF p.20).

(iii) Epps & Coulson, LLC's lien pursuant to section 363(f)(2)

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because it apparently has consented to the sale (dkt. 352, at PDF p. 20).

(iv) All other interests pursuant to section 363(f)(5), and the following analysis from the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov):

§ 363(f): Sales free and clear. Regarding § 363(f)(5), Judge Bason does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under that statute whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, Judge Bason has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See Cal. Code Civ. Proc. ("CCP") § 564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)).

(2) Status conference

The tentative ruling is to continue this post-confirmation status conference to 8/20/19 at 1:00 p.m., with no written status report required. This Court anticipates that it will issue a tentative ruling, shortly prior to that

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time, further continuing the status conference if there is no activity on the docket that appears to warrant a status conference at that time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue to 5/21/19 at 1:00 p.m., with no status report required, in view of the latest status report (dkt. 346) and notice of sale (dkt. 347). Appearances are not required on 3/26/19.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Reports (dkt. 343, 345) and Status Report (dkt. 346). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

R&J Limited Partnership

Represented By

Vanessa M Haberbush

David R Haberbush

JRJ Limited Partnership

Represented By

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R&J Limited Partnership and JRJ Limited Partnership

Vanessa M Haberbush

David R Haberbush

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#13.00 Cont'd Status Conference re: Removal
fr. 2/5/19, 4/9/19; 04/30/19, 05/21/19, 06/04/19,
7/2/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see tentative ruling in status conference (cal. no. 16, 8/20/19 at 1:00 p.m.).

Tentative Ruling for 7/2/19:

Please see tentative ruling in status conference (cal. no. 19, 7/2/19 at 1:00 p.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling in status conference (cal. no. 5, 6/4/19 at 1:00 p.m.).

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 19 at 1:00 p.m.).

Tentative Ruling for 2/5/19:

Appearances required. This Court has reviewed the parties' joint status

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report (dkt. 9) and the other filed documents and records in this adversary proceeding. Based on those documents it appears that both the plaintiff (Poser Investments, Inc., "Poser") and the Debtor-defendants agree that the four properties at issue either were never properly transferred or have been returned to Debtors, and either way they are now part of the bankruptcy estate. The principal remaining issues appear to be:

- (1) Will the other defendants contest that issue?
- (2) Does this Bankruptcy Court require jurisdiction over those other defendants (so as to enter a judgment against them, or at least against the interests that they previously asserted against the four properties), and if such jurisdiction is required, is such jurisdiction established by their appearance in the removed State Court action, or do they consent to *in personam* jurisdiction?
- (3) Does the underlying default judgment obtained by Poser's predecessor in interest against Debtors have a preclusive effect against the Debtor-defendants?
- (4) Does Poser have allowable secured claims against the four properties based on the *lis pendens* and abstracts of judgment?

The parties are directed to address whether there are different principal issues that this Court has not identified. In addition, the parties are directed to address why it would be necessary to have further discovery (in addition to what has already been conducted in the State Court) to address these issues. These appear likely to be resolved based on an application of the law to the undisputed facts, after briefing - e.g., motion(s) for summary judgment.

Meanwhile, it appears appropriate to order mandatory mediation, as set forth below.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

- (1) Venue/jurisdiction/authority.

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The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/19/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 12/10/18. The tentative ruling is not to set any deadlines (e.g., for cutoff of discovery) at this time, so as to provide time for mediation and/or motion(s) for summary judgment on potentially dispositive issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi	Represented By Anthony Obehi Egbase
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Defendant(s):

Finnian Ebuehi	Represented By Anthony Obehi Egbase
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Elizabeth Ebuehi	Represented By Anthony Obehi Egbase
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Beta Alpha Holdings, LLC	Pro Se
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Olesegun Adenowo	Pro Se
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1518 WATERS AVENUE TRUST,	Pro Se
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619 WEST GLADSTONE STREET	Pro Se
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2551 YORKSHIRE WAY TRUST,	Pro Se
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1580 W. 2ND STREET TRUST,	Pro Se
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DOES 1 through 100, inclusive	Pro Se
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Joint Debtor(s):

Elizabeth Olohirere Ebuehi	Represented By Anthony Obehi Egbase
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Plaintiff(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds Rafael R Garcia-Salgado
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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#14.00 Cont'd hrg re: Motion for Leave to File Cross-Complaint
fr. 04/30/19, 05/21/19, 06/04/19, 7/2/19

Docket 16

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see tentative ruling in status conference (cal. no. 16, 8/20/19 at 1:00 p.m.).

Tentative Ruling for 7/2/19:

Please see tentative ruling in status conference (cal. no. 19, 7/2/19 at 1:00 p.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling in status conference (cal. no. 5, 6/4/19 at 1:00 p.m.).

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

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Elizabeth Ebuehi	Represented By Anthony Obehi Egbase
Beta Alpha Holdings, LLC	Pro Se
Olesegun Adenowo	Pro Se
1518 WATERS AVENUE TRUST, 619 WEST GLADSTONE STREET	Pro Se
2551 YORKSHIRE WAY TRUST, 1580 W. 2ND STREET TRUST, DOES 1 through 100, inclusive	Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi	Represented By Anthony Obehi Egbase
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Movant(s):

Finnian Ebuehi	Represented By Anthony Obehi Egbase
Elizabeth Ebuehi	Represented By Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds Rafael R Garcia-Salgado
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2:18-20704 Finnian Osakpamwan Ebuehi

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Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#15.00 Cont'd hrg re: Motion For Summary Judgment
fr. 04/30/19, 05/21/19, 06/04/19, 7/2/19

Docket 13

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see tentative ruling in status conference (cal. no. 16, 8/20/19 at 1:00 p.m.).

Tentative Ruling for 7/2/19:

Please see tentative ruling in status conference (cal. no. 19, 7/2/19 at 1:00 p.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling in status conference (cal. no. 5, 6/4/19 at 1:00 p.m.).

Tentative Ruling for 5/21/19:

Please see tentative ruling in status conference (cal. no. 10, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see tentative ruling in status conference (4/9/19, calendar no. 5 at 2:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

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Elizabeth Ebuehi	Represented By Anthony Obehi Egbase
Beta Alpha Holdings, LLC	Pro Se
Olesegun Adenowo	Pro Se
1518 WATERS AVENUE TRUST, 619 WEST GLADSTONE STREET	Pro Se
2551 YORKSHIRE WAY TRUST, 1580 W. 2ND STREET TRUST, DOES 1 through 100, inclusive	Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi	Represented By Anthony Obehi Egbase
----------------------------	----------------------------------------

Movant(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds Rafael R Garcia-Salgado
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Plaintiff(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds Rafael R Garcia-Salgado
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Chapter 11

#16.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19, 4/9/19;
04/30/19, 05/21/19, 06/04/19, 7/2/19

Docket 26

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances are not required.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13), and counterclaims motion (adv.dkt. 16)

This Court has issued its written Memorandum Decision granting the MSJ of Poser Investments, Inc. ("Poser") and denying Debtor/Defendants' counterclaims motion. In other words, Debtors cannot raise defenses or counterclaims to Poser's liens, which has a very substantial impact on how Debtors will have to address their financial situation. The tentative ruling is to continue the Status Conference in this adversary proceeding (no.13 on today's calendar) to the same date and time as the continued Status Conference in the bankruptcy case (no.16 on today's calendar), at which time the parties can address whether Debtors have any viable exit strategy in this chapter 11 case, and whether it is appropriate to dismiss or convert this case, set briefing schedules, or take any other action. The tentative ruling is to direct Debtor to serve a notice on all parties in interest via U.S. mail, no later than 8/22/19, quoting this paragraph in full.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 9/24/19 at 1:00 p.m. Status Report due 9/10/19.

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Tentative Ruling for 7/2/19:

Appearances are not required.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

The Court intends to issue a written decision prior to the hearing.

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

Same.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 8/20/19 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 6/4/19:

Appearances are not required.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

The Court intends to issue a written decision prior to the hearing.

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

Same.

(c) Stipulation Re: Adequate Protection and Claim Treatment (dkt. 117)
Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 7/2/19 at 1:00 p.m. No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

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This Court had expected to issue a decision prior to the hearing, but has been unable to do so. The tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

Same.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 6/4/19 at 1:00 p.m. (to be concurrent with another pending motion, see dkt. 121). No written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 4/30/19:

Appearances required.

(1) Current issues

(a) Motion for Summary Judgment ("MSJ," Adv. No. 2:18-ap-01431-NB, dkt. 13)

(i) Evidentiary Objections of Poser Investments, Inc. ("Poser") (adv. dkt. 32)

The tentative ruling is to sustain Poser's Evidentiary Objections except as to lack of personal knowledge.

(ii) MSJ

The tentative ruling is to grant the MSJ (adv. dkt. 13) for the reasons stated in the MSJ and Poser's Reply (adv. dkt. 31). Rule 56 (Fed. R. Civ. P.,

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incorporated by Rule 7056, Fed. R. Bankr. P.). But Judge Bason will have some questions for the parties at the hearing regarding the interaction of Federal, California, and other State law, and principles of claim and issue preclusion and retraxit.

(b) Debtor-Defendants' Motion for Leave to File Cross-Complaint (adv. dkt. 16)

The tentative ruling is to deny the Motion for Leave to File Cross-Complaint for the reasons stated in Poser's opposition (adv. dkt. 30).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conference: 7/9/19 at 1:00 p.m., written status report due 7/2/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 2/26/19:

Continue as set forth below, with a deadline to file a draft plan and disclosure statement as set forth below. Appearances are not required on 2/26/19.

(1) Current Issues

(a) First Interim Fee Application (dkt. 72), Grant \$19,755.00 in fees

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and \$173.80 in expenses. *Proposed order:* Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: file by 4/1/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

*Warning: special procedures apply (see order setting initial status conference).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 4/30/19 at 1:00 p.m., no written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 1:00 p.m. Appearances are not required on 1/29/19.

(1) Current Issues

(a) No current issues to address.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 2/26/19 at 1:00 p.m., Status Report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Appearances required

(1) Current Issues

(a) Budget Motion (dkt. 11)

Grant on a final basis.

(b) Amended Cash Collateral Motion (dkt. 50)

Grant on a final basis. Per Debtors' status report (dkt. 49, p.3), the proposed order must include language that it shall not be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23.

(c) Motion to Employ Counsel (dkt. 18)

Grant on a final basis, based on the (late-filed) declarations of Julius and John Adeoye (dkt. 57, 58). See Interim Order (dkt. 39) & Egbase Decl. (dkt. 47).

(d) Proposed orders

Debtors are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/29/19 at 1:00 p.m., no written

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

Appearances required by counsel for the debtor and by Debtors themselves.

(1) Current issues

(a) Status report (dkt. 43, 45)

Debtors have not used the Local Form, which is mandatory in this case (see Judge Bason's posted procedures, available at www.cacb.uscourts.gov). The tentative ruling is to set a deadline of 11/13/18 to file the form and serve it on the United States Trustee.

(b) Motion to Employ Debtors' Counsel (Dkt. 18)

Debtors have not adequately addressed the issues in this Court's interim order (dkt. 39). Although proposed counsel declares (dkt. 47) that he has "learned" (from unspecified hearsay) that Debtors' relatives have funded the \$15,000 retainer as a gift, there is no declaration from the two alleged donors confirming this, and confirming all of their "connections" with all parties in interest and their attorneys and accountants (see dkt. 39, section 6.(a)), and their informed consent to potential or actual conflicts (*id.*, sec. 6.(c)), and Debtors' informed consent (*id.*, sec. 6.(d)). The tentative ruling is to continue this matter to the same time as the continued status conference (see below) and set a deadline of 11/13/18 to file appropriate declarations and serve them on the United States Trustee.

(c) MOR1 (Sept., 2018, dkt. 36)

Debtors report that they spent \$1,350.43 in cash, with no breakdown and just a vague description about "personal expenses," "charitable contributions," etc. The tentative ruling is that any proposed order authorizing

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the proposed budget must include a prohibition on Debtors spending more than \$50 cash on any one item or \$250 cash in the aggregate per month without attaching photocopies of receipts.

Several insurance policies have expired or are about to (see dkt. 36, at PDF p.16). What are Debtors doing about that?

(d) Motion to Use Cash Collateral (dkt 20)

First, Debtors failed to lodge a proposed order authorizing the use of cash collateral on the terms set forth in the adopted Tentative Ruling for 10/16/18 (see calendar no. 20, 11/6/18 at 1:00 p.m., which includes a copy of that earlier tentative ruling). The tentative ruling is to set a deadline of 11/13/18 to lodge that proposed order, with a copy of that tentative ruling attached.

Second, the original motion appears to have been superseded by an amended motion, which has not been separately filed and served but instead is attached as an exhibit to a supplemental declaration. See dkt. 29, Ex.B. The tentative ruling is to set a deadline of 11/13/18 to file and serve that motion, which will be heard at the same date and time as the continued status conference (see below).

Third, the tentative ruling is that no order granting Debtors' motions regarding cash collateral shall be construed as endorsing the statements to which creditor Poser Investments, Inc. objects. See dkt. 23. Debtors are directed to make this clear in their proposed orders.

(b) Motion for Order Approving a Budget (Dkt. 11)

Grant on an interim basis, with a continued hearing at the same time as the continued status conference (see below). The tentative ruling is that Debtors' (late-filed) declaration (dkt. 29 & Ex.A) has adequately addressed this Court's concerns about charitable donations.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/18/18 at 1:00 p.m., *brief* status report due 12/11/18.

*Warning: special procedures apply (see order setting initial status conference).

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Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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#17.00 Cont'd Status Conference re: Post Confirmation
fr. 5/31/16, 7/19/16, 9/13/16, 11/8/16, 1/10/17, 02/28/17,
4/11/17, 5/23/17, 6/20/17, 8/8/17, 8/15/17, 11/14/17,
02/13/18, 7/10/18, 9/18/18, 12/11/18, 5/7/19; 08/06/19

Docket 6

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances required. There is no tentative ruling on the United States Trustee's Motion to Dismiss or Convert (dkt. 183), but the parties should be prepared to address the issues raised in that motion and the Debtor's response (dkt. 188).

If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 10/29/19 at 1:00 p.m., with no Status Report required (but with the usual postconfirmation report(s) required).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

Continue to 8/20/19 at 1:00 p.m. to be heard in conjunction with the United States Trustee's Motion to Dismiss or Convert (dkt. 183). Appearances are not required on 8/6/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues. This Court has reviewed the docket. The parties should be prepared to address the status of the case and when it will be ready for a final decree.

(2) Deadlines/dates. Continue to 7/30/19 at 1:00 p.m. (no written status report required; and will go off calendar if a final decree has been issued before that time).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18 (same as for 9/18/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The docket does not reflect any activity. What is the status of this case, and when will it be ready for a final decree?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 7/10/18:

Continue as set forth below. Appearances are not required on 7/10/18.

(1) Current Issues. This Court has reviewed debtor's status report (dkt. 154, 156) and other relevant pleadings in this case. This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. Continue to 9/18/18 at 1:00 p.m. (no written status report required; and will go off calendar if a final decree has been issued before that time).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 2/13/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties should be prepared to address any issues appropriate for resolution at this post-confirmation status conference. The tentative ruling is to set a continued status conference for 7/10/18 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

Continue to 2/13/18 at 1:00 p.m. in view of the debtor's post-confirmation status report (dkt. 142). Appearances are not required on 11/14/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/15/17:

Appearances required. The debtor's counsel should be prepared to address the issues set forth below.

Proposed order: If this court is persuaded to adopt this tentative ruling, then counsel for the debtor is directed to serve and lodge proposed orders (a) approving the disclosure statement (dkt. 101) on a final basis and (b) confirming the plan (dkt. 102), all as amended by the stipulation with class 2A (dkt. 127, 128). Those proposed orders must be lodged via LOU within 7 days after the hearing date.

(1) Ballot Summary. The debtor's ballot summary (dkt. 131) appears to be inaccurate and internally inconsistent. Although the ballots and stipulation attached to the ballot summary show acceptance by 100% in both dollar amount and number of the claims actually voted or deemed to have been voted in classes 2A, 2B and 4A, and no vote by Class 2C, the ballot summary makes assertions that are not consistent with those ballots, namely:

(a) Cramdown: The ballot summary asserts that the debtor is not requesting cramdown (dkt. 131, item 3), even though the lack of an affirmative vote in class 2C means that the debtor does not satisfy 11 U.S.C. 1129(a)(8) and therefore must seek cramdown under 11 U.S.C. 1129(b);

(b) Accepting classes: The ballot summary asserts that only class 4A has voted to accept the plan (dkt. 131, item 6), even though classes 2A and 2B have also accepted the plan; and

(c) Page 2 of the Ballot Summary: The chart on page 2 of the ballot summary (dkt. 131, p.2, top line of chart) fails to show that Class 2A has accepted the plan by 100% in number of claims deemed to have been voted

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(not just 100% in amount). In addition, it would have been helpful if the ballot summary's "Comments" following that chart had explained that (i) Portfolio Recovery Associates is Class 2C (even though it is listed as LA County Tax Collector in the Plan), (ii) U.S. Bank is Class 2A (even though it is listed as Wells Fargo in the Plan), and (iii) Class 2A is deemed to have voted in favor of the plan under its court-approved stipulation, even though it did not actually cast a ballot. (If any of the foregoing is incorret then counsel for the debtor must correct those issues at the hearing.)

(2) Status report

The debtor's status report (dkt. 130) misleadingly asserts that this court's order (dkt. 106) previously approved the disclosure statement (dkt. 101), whereas in fact this court only granted preliminary approval for purposes of this combined hearing on whether to approve the disclosure statement (dkt. 101) and confirm the plan (dkt. 102).

(3) Confirmation. Notwithstanding the foregoing, it appears that the debtor's disclosure statement (dkt. 101) should be approved, and that the chapter 11 plan (dkt. 102), as amended by the debtor's stipulation with the holder of the class 2A claim (dkt. 127, 128), has met the requirements for confirmation under 11 U.S.C. 1129(a) & (b).

(4) Correction. This court notes that the tentative ruling for 6/20/17 (reproduced below) was in error in asserting that "[at] the status conference on 5/23/17 this court set a deadline of 6/6/17 to file an amended plan and disclosure statement." In fact, this court was persuaded at that status conference not to impose that deadline.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/20/17:

Continue to 8/8/17 at 1:00 p.m. (without the need for any written status report), but impose sanctions of \$200 on counsel for the debtor, for the reasons set forth below. Appearances are not required on 6/20/17.

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At the status conference on 5/23/17 this court set a deadline of 6/6/17 to file an amended plan and disclosure statement. On 6/15/17, after this court had already prepared a tentative ruling for this status conference, counsel for the debtor filed a stipulation (dkt. 117) and lodged a proposed order for yet another continuance of the confirmation hearing. At no point did counsel telephone chambers to suggest that counsel expected or was attempting to arrange for such a continuance. Moreover, as set forth in the tentative rulings reproduced below, this case has a long history of missed deadlines, last minute filings, and deficient documents.

This court recognizes that to a large extent counsel cannot control delays by a debtor and debtor in possession, and not infrequently a debtor is simply incapable of meeting all of the debtor's obligations. Nevertheless, this court has noted that counsel of record in this case has a pattern, in this and other cases (*e.g.*, *In re Barragan*, 2:15-bk-29156-NB), of filing late and inadequate documents, and that pattern is not matched by the vast majority of other counsel who appear before this court. All of that strongly suggests that counsel bears some responsibility for those deficiencies, and that imposes substantial burdens on this court, the U.S. Trustee, and any other parties in interest who may be monitoring or involved in such bankruptcy cases. The tentative ruling is that this warrants sanctions under this court's inherent powers and 11 U.S.C. 105. Counsel is also cautioned that this court anticipates issuing similar or increased sanctions if this pattern continues in other cases in future.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/23/17:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The ballot summary was due 5/16/17 but was not filed until 5/22/17 at 4:12 p.m. In addition, it is internally inconsistent. What remedies are appropriate?

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The plan (dkt. 102) has not been accepted by any class. This is the debtor's second bankruptcy case, and it has been pending for over a year. The debtor's lack of progress for that long a period of time suggests a willful delay. Should this court dismiss or convert this case? Should this court impose a bar against being a debtor in bankruptcy for the third time in a row?

(2) Deadlines/dates. This case was filed on 4/20/16. *If* this case is not dismissed or converted, the tentative ruling is to hold a continued status conference on 6/20/17 at 1:00 p.m. with a deadline of 6/6/17 to file (but NOT serve) yet another amended plan and disclosure statement.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/23/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/11/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) UST compliance and adequate protection payments. What is the status?

(b) Plan (dkt. 101) and Disclosure Statement (dkt. 102). 4/14/17 deadline to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: See above.

(c) Continued status conference: 5/23/17 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 2/28/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) U.S. Trustee notice of non-compliance. Has the debtor cured the reporting delinquency noted by the U.S. Trustee regarding lack of insurance (dkt. 94)?

(b) Adequate protection payments. At the hearing on 1/10/17 counsel for the debtor assured this court that the debtor had cured the postpetition delinquency in adequate protection payments. But the monthly operating report for January 2017 (dkt. 95, filed 2/7/17, at p.4) continues to list 4 missed payments for a total of \$6,972 delinquency. What was the basis for counsel's misrepresentation to this court? Should this court require counsel and the debtor to testify on that issue, and on the prospects for future income, before this court can find that the plan is feasible (11 U.S.C. 1129(a)(11))? Should this misrepresentation have any other consequences?

(c) Plan (dkt. 82) and Disclosure Statement (dkt. 81). The debtor's ballot summary was due to be filed no later than 2/21/17 (dkt. 89). Instead the debtor's counsel has filed a declaration (dkt. 96) asserting that a ballot in favor of the plan has been received by class "6b," even though no such class is listed in the plan (see dkt. 82, Ex.A), and requesting more time to receive ballots from classes 2a and 2b, even though the deadline for ballots has passed. The parties should be prepared to address how best to proceed in these circumstances.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement (dkt. 82, 81): See above.

(c) Continued status conference: 4/11/17 at 1:00 p.m.

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*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/10/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Payments to secured creditor Wells Fargo. The debtor's November 2016 MOR reflects that the debtor has **not** made 4 monthly payments to secured creditor Wells Fargo. See dkt. 84, PDF p. 7. Is that accurate, or did the debtor intend to state that those payments were made?

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement (dkt. 82, 81): The tentative ruling is to set the following deadlines: 1/17/17 to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and to lodge Judge Bason's form of order authorizing service of the relevant documents and setting deadlines; and 2/28/17 at 1:00 p.m. for the combined hearing on approval of the Disclosure Statement and confirmation of the Plan (with the court to set typical deadlines for objections etc.).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for

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such objections are established).

(c) Continued status conference: 2/28/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/8/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Amended Chapter 11 Plan and Disclosure Statement (dkt. 74, 75).

There are issues with these documents which this Bankruptcy Court will review orally at the hearing.

(b) Monthly operating reports. The debtor's court approved budget (dkt. 19) and the budget attached to her amended chapter 11 disclosure statement (dkt. 74, PDF p. 13) show various typical monthly expenses such as transportation costs, utilities, and food. The expenses included in her budgets submitted to this court are either not reflected in her MORs for August and September 2016 (dkt. 65 and 73, respectively) or are reflected, but in much smaller amounts than budgeted. Is the debtor reporting all of her monthly expenses in her MORs? If not, why not?

Additionally, the MORs appear to reflect that the debtor is receiving less than her budgeted monthly income (\$1,800/mo.) from her job as a real estate professional. In August 2016, the debtor reported receipts of \$970.01; in September 2016, receipts of \$1,000.

Based on the reporting in the debtor's two most recent MORs, this court is concerned that the debtor may not have sufficient disposable income with which to fund her proposed chapter 11 plan.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

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(b) Plan/Disclosure Statement: Deadline of 12/6/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 1/10/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/13/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Chapter 11 Plan and Disclosure Statement (dkt. 59, 58). There are numerous issues with these documents, which this Bankruptcy Court will review orally at the hearing.

(b) Orders on budget and cash collateral motions. On July 19, 2016, this court held continued hearings on the debtor's motion for use of cash collateral (dkt. 18) and budget motion (dkt. 19). The motions were granted on a final basis, and the court's adopted tentative ruling directed the debtor to lodge proposed orders on those motions within seven days of the hearing date. This court has reviewed the case docket and its pending lodged orders, and it appears no such orders have been lodged.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: Deadline of 10/11/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written

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status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/19/16:

Appearances are not required on 7/19/16.

(1) Current issues.

(a) Cash collateral motion (dkt. 18). Grant on a final basis, on the same terms set forth in this court's order granting interim use of cash collateral (dkt. 37).

(b) Budget motion (dkt. 19). Grant on a final basis.

The debtor must lodge proposed orders on each of the foregoing motions within seven days.

(2) Deadlines/dates. This case was filed on 4/20/16

(a) Bar date: Bar date: 7/29/16 (timely served, dkt. 39).

(b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/13/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent,

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then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/31/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 23).

(a) Prior failed case. The debtor's prior case (no. 2:14-bk-14065-NB) was a chapter 13 case that was dismissed because of plan infeasibility due to the objections by Wells Fargo, and claims by the IRS, FTB, and L.A. County Tax Collector.

(b) Debtor's real property

(i) Inconsistent rental income amount. This Court notes that the debtor's amended schedule G reflects a monthly rental of \$2,200 (dkt. 13, p.10), which was originally listed as \$1,500 per month (dkt. 1, p.36). However, the debtor's original schedule I originally listed the debtor's net income from rental property as \$2,400 (dkt. 1, p.39). The debtor's amended schedule I now lists net income from rental property as \$2,200 (dkt. 13, p.12). Although the rental income now appears to be consistent at \$2,200, and schedule G reflects the same lessee, Smark Lyles, is this the correct amount?

(ii) Schedule I. Part 8.a. requires that the debtor attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.

(iii) Motion to Value. The debtor's status report indicates that the debtor intends to file a motion to value the real property. When does the debtor anticipate filing the motion to value?

(c) UST compliance. The United States Trustee has filed a motion to dismiss or convert (dkt. 24). Although the matter has been set for hearing on 6/21/16, the debtor should be prepared to address more generally, why this case in chapter 11 instead of chapter 13. It appears that the debtor is within the debt limits for chapter 13, and chapter 11 typically is far more expensive, so it seems doubtful that the debtor needs or can afford a chapter 11 case.

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(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 23, p.4) but this Court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

(c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

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2:19-16482 Unified Protective Services, Inc. and Delano Fields

Chapter 11

#18.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/2/19; 08/06/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/20/19:

Continue as set forth below. Appearances are not required on 8/20/19.

Proposed orders: Debtor is directed to lodge proposed orders for each of the following matters via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(1) Current issues

(a) First Interim Application for Compensation and Reimbursement of Expenses of Michael Jay Berger (dkt. 37)

Allow \$22,263.00 in fees and \$417.30 in expenses, for a total of \$22,680.30.

(b) Motion for an Order Waiving the Requirement to File the Report of Financial Information Under Bankruptcy Rule 2015.3 (dkt. 40)

Grant.

(c) Retroactive wage motion (dkt. 41)

Grant.

(2) Deadlines/dates. This case was filed on 6/1/19.

(a) Bar date: 9/6/19 (timely served 7/18/19) (dkt. 31, 32)

(b) Plan/Disclosure Statement*: TBD (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/20/19 at 1:00 p.m., No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... Unified Protective Services, Inc. and Delano Fields Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

Continue as set forth below. Appearances are not required on 8/6/19.

(1) Current issues

This Court has reviewed the debtor's latest filed documents, including its Status Report (dkt. 43). The status report does not address item (1)(f) from the 7/2/19 tentative ruling (copied below), which raises concerns about possible conflicts of interest between Debtor's principal/landlord and Debtor's bankruptcy estate. Nevertheless, presumably, the leases can be addressed at future status conferences. Therefore this Court is not aware of issues that would warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 6/1/19.

(a) Bar date: 9/6/19 (timely served 7/18/19) (dkt. 31, 32)

(b) Plan/Disclosure Statement*: TBD (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 8/20/19 at 1:00 p.m., No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Tentative Ruling for 7/2/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

(a) Cash Collateral

Debtor's Chapter 11 Status Conference Report (dkt. 17, the "Status Report") asserts that "there is no cash that any entity can claim as its cash collateral." Dkt. 17 at 3. But Debtor's Schedule D lists two possible secured creditors: Bank of the West (the "Bank") - which Debtor "believes" has been paid, but apparently has not confirmed - and FM Marketing & Properties, LLC ("FM Marketing") - as to which Debtor "does not know" whether a UCC-1 was recorded or any termination statement was filed. Dkt. 15 at PDF p. 14-15.

How can Debtor be sure that the Bank and FM Marketing agree that any debts have been fully paid off, without verification from those creditors that they are not asserting an unpaid balance based on, e.g., loan initiation charges, alleged defaults, default interest, late charges, attorney fees, etc.? How can Debtor use cash, which might be subject to asserted liens, without filing and serving a motion for use of cash collateral? See 11 U.S.C. 363(c)(2). What due diligence has been undertaken to determine the foregoing issues, and whether or not there are recorded UCC liens against Debtor?

(b) Other "First Day" Motions

Debtor states that there are approximately 200 employees, including Debtor's principal, Sherif Antoon (dkt. 17 at 2) but Debtor has not filed a motion seeking authorization to pay prepetition payroll. Why not?

Debtor states that it has not filed a budget motion (dkt. 17, p.3) because Debtor "is not an individual" but the posted Procedures of Judge Bason require budget motions, without any exemption for non-individuals. In the past, Judge Bason has ruled that a budget motion is necessary because under 11 U.S.C. 363(b)&(c) only "ordinary course" transactions do not require Court approval, and debtors not infrequently have unduly expansive concepts of what is "ordinary course."

(c) IRS Debt

The Status Report notes that the IRS may have a claim of \$140,000 against Debtor and that Debtor intends to enter into a plan treatment stipulation with the IRS. Dkt. 17 at 2. But Debtor's Schedules state that the IRS has a \$0.00 claim and that the IRS is included in the Schedules "for

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notification purposes and as a precaution only." Dkt. 15 at PDF p. 17. Why was the IRS debt not disclosed in Debtor's Schedules?

(d) False Corporate Ownership Statement

Debtor's Principal, Sherif Antoon, declares that there are no "entities" that directly or indirectly own 10% or more of any class of equity interests in Debtor. Dkt.1, p.17. But the term "entity" includes any "person" (11 U.S.C. 101(15)) and the term "person" includes any individual (11 U.S.C. 101(41)). Does Mr. Antoon own 10% or more of the equity interests of Debtor?

(e) Monthly Operating Reports for 4JFarid

The Status Report notes that Mr. Antoon is the principal of 4JFarid, LLC. Dkt. 17 at 7. 4JFarid is Debtor's landlord on three separate leases. *Id.*

This Court reminds Debtor and its Principal that "for *all* reporting purposes - including Monthly Operating Reports ("MORs"), disclosure statements, etc. - Debtor must disclose *all income, expenses, assets, and liabilities of (a) affiliated businesses and (b) any spouse.*" Dkt. 3 at 2 (emphasis added). Based on this Court's review of Debtor's schedules, Debtor has not disclosed the income, expenses, assets, and liabilities of 4JFarid.

(f) Assumption of Leases

Debtor has three unexpired leases with landlord 4JFarid. Dkt. 15 at PDF p. 27. Debtor states that it intends to assume these three leases. Dkt. 17 at 7. Assumption requires curing of any default (as well as compensating for any pecuniary losses, and providing adequate assurance of future performance under the leases). 11 U.S.C. 365(b). Debtor's bankruptcy schedules list \$180,000 in unpaid rent owed to landlord 4JFarid. Dkt. 15 at PDF p. 17.

This Court is concerned that Mr. Antoon, who is the principal of both Debtor and landlord 4JFarid (dkt. 17 at 7) proposes to assume these leases, at great expense, rather than move to a new location. Debtor is directed to address why it would not be less expensive and in the best interests of creditors to lease new premises.

(2) Deadlines/dates. This case was filed on 6/1/19.

(a) Bar date: 9/6/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures

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at a later time).

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(c) Continued status conference: 8/6/19 at 1:00 p.m., *brief* status report due 7/30/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:18-24612 Robert Panosian

Chapter 7

Adv#: 2:18-01457 Los Angeles Federal Credit Union v. Panosian

#1.00 Hrg re: Motion To Set Aside Default Judgment

Docket 20

Tentative Ruling:

Deny for the reasons stated in Plaintiff's opposition (adv. dkt. 24), and the additional reasons provided below. Appearances are not required.

Proposed order: Plaintiff is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis

(1) Background

This Court's tentative ruling on Plaintiff's motion for default judgment (heard 6/4/19 at 11 a.m., cal. no.3&4) was as follows:

(a) A default judgment appears to be appropriate

The tentative ruling is to grant the Motion for Default Judgment based on Defendant's consistent failure to properly appear in this case. Although a trial on the merits is favored over a default judgment, it appears that entering a default judgment is appropriate in these circumstances. Fed. R. Civ. P. 55(b)(2).

First, despite this Court's oral rulings requiring mediation (as contemplated in the tentative rulings for 3/5/19 and 5/7/19, reproduced below), Defendant has failed to attend mediation or seek relief from those orders. Second, despite the fact that the Clerk of this Court has entered a default against Defendant (adv. dkt. 5), he has not filed any motion for relief from such default. Instead he has filed a (late) answer (dkt. 6) that appears to be nothing but a generic denial of everything and assertion of boilerplate, generic defenses. Third, Defendant's lack of any meaningful participation in this adversary proceeding

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Chapter 7

is prejudicial. Plaintiff has incurred all the post-judgment attorney fees and costs of this nondischargeability action, while Defendant is incurring far fewer fees and costs by barely participating in this litigation.

(b) Nature of default judgment

Because there is a prepetition state court judgment of \$11,622.46, it is not appropriate for this Bankruptcy Court to issue a new award of such damages. Rather, it appears that the proper course is for this Bankruptcy Court to issue a declaratory judgment that the State Court judgment is non-dischargeable as to Defendant under 11 U.S.C. 523(a)(2)(A) and 523(a)(2)(B). In addition, Plaintiff is entitled to ongoing pre- and postpetition interest on the State Court judgment, at the post-judgment interest at the California rate of 10% per annum based on Cal. Civ. P. Code 685.010(a). *In re Hamilton*, 584 B.R. 310, 323-24 (9th Cir. BAP 2018). Additionally, the tentative ruling is to award Plaintiff \$1,297.34 in attorney's fees, plus \$350.00 in the cost of suit. See LBR 7055-1(b)(4).

(2) Legal standards for setting aside default judgment

A default judgment is a "drastic" and "extreme" remedy and litigation should, whenever possible, be decided on the merits. *United States v. Signed Personal Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir. 2010) (citing *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984)). But there are limits on a party's ability to ignore litigation and then, after losing, seek to be heard.

A client ordinarily is accountable for negligent acts or omissions of their counsel. See *Comty. Dental Serv. v. Tani*, 282 F.3d 1164, 1168 (9th Cir. 2002). Only when the client "has demonstrated gross negligence on the part of the counsel" is that accountability excused. *Id.* (emphasis added). There are good reasons for this approach: otherwise Courts would have to inquire into attorney-client communications, or else accept without question a client's excuse about alleged miscommunications between the counsel and the client.

A motion to vacate a default judgment under Rule 9024 (Fed. R. Bankr. P.) (paralleling Rule 60(b)(1), Fed. R. Civ. P.) may be denied, in the discretion of the trial court, if:

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(1) the defendant's culpable conduct led to the default, (2) the defendant has no meritorious defense, or (3) the plaintiff would be prejudiced if the judgment is set aside. . . . If a default judgment is entered as the result of a defendant's culpable conduct, however, we need not consider whether a meritorious defense was shown, or whether the plaintiff would suffer prejudice if the judgment were set aside. [*Meadows v. Dominican Republic*, 817 F.2d 517, 521 (9th Cir. 1987) (citations omitted, emphasis added)]

As provided by the emphasized text, the above quoted test is disjunctive. See *Cassidy v. Tenorio*, 856 F.2d 1412, 1415 (9th Cir. 1988). A court "may exercise its discretion to deny relief to a defaulting defendant based solely upon a finding of defendant's culpability, but need not." *Brandt v. Am. Bankers Ins. Co. of Fla.*, 653 F.3d 1108, 1112 (9th Cir. 2011).

A defendant's conduct is culpable if they have "received actual or constructive notice of the filing of the action and *intentionally* fail[] to answer." *In re Houng*, 2011 WL 6989900, at *7 (9th Cir. BAP 2011) (citations omitted). "Intentionally" in this context requires that the individual have acted with bad faith, such as "an intention to take advantage of the opposing party, interfere with judicial decisionmaking, or otherwise manipulate the legal process." *Id.* (citations omitted).

(3) Application of the legal standard

On the record presented, the tentative ruling is to find that Debtor/Defendant's conduct was culpable. That conduct includes:

- * despite having been served with notice of the status conference and the deadline for filing an Answer, and despite email correspondence about those things, failing to attend the status conferences in this adversary proceeding or file an Answer until three days after the extended deadline (see adv. dkt. 7 and adv.dkt.24 Ex.A, B & C);

- * filing an Answer that includes only generic denials and defenses - for example, in response to the Complaint's allegation in paragraph 8 that a judgment was entered against Debtor/Defendant with a true and correct copy attached as an exhibit, the Answer states that "Defendant lacks information or belief sufficient to admit or deny" such allegations and on that basis denies them;

- * failing to attend mediation despite email correspondence with

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Plaintiff's counsel informing Debtor/Defendant (if he did not already know) that this Court has posted tentative rulings requiring mediation (adopted as oral orders of this Court at the status conferences that Debtor/Defendant failed to attend);

* failing to file a notice of limited appearance (if, in fact, Debtor/Defendant's counsel had any arrangement to appear for only limited purposes);

* failing to inform Plaintiff's counsel - despite an exchange of emails between Plaintiff and the counsel who filed the answer for Debtor/Defendant - that such counsel was only retained to file the Answer (see adv. dkt. 24, Ex.A&B).

There is no allegation by Debtor/Defendant of any gross negligence by his counsel; and unless his counsel failed to inform him of any of this he has had more than ample opportunity to participate in this litigation. Moreover, by doing nothing Debtor/Defendant had driven up Plaintiff's legal fees: already those legal fees must be substantial in proportion to the \$10,000 debt at issue. See Complaint, Ex.B (adv.dkt.1). This matter has all the hallmarks of an attempt to use delay and obstruction in litigation as a tactic to gain advantage.

For all of the foregoing reasons, the tentative ruling is that Debtor/Defendant's culpable conduct does not warrant relief from the default judgment. In addition, the tentative ruling is that in view of the comparatively small dollar amounts at stake, this Court should determine the issues on the filed papers and this Court's records, without the expense, delay, and burden of an evidentiary hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Robert Panosian

Represented By

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Chapter 7

Christopher S Reyes

Defendant(s):

Robert Panosian

Represented By
Kurt Zimmerman

Movant(s):

Robert Panosian

Represented By
Kurt Zimmerman

Plaintiff(s):

Los Angeles Federal Credit Union

Represented By
Alana B Anaya

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
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2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

#2.00 Hrg re: Bank of America's motion to
dismiss adversary complaint

Docket 8

Tentative Ruling:

Please see the tentative ruling for the Status Conference (calendar no. 4,
8/20/19 at 2:00 p.m.).

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

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CONT... Juvernaldo Cordon Cruz
National Default Servicing

Chapter 11

Represented By
Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

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2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

#3.00 Hrg re: Motion to Dismiss Adversary Proceeding
[Filed by Deft's, Fay Servicing, LLC; Wilmington Savings Fund
Society, FSB, DBA Christiana Trust, Not Individually but as
Trustee for Hilldale Trust; and BSI Financial Services, Inc.]

Docket 11

Tentative Ruling:

Please see the tentative ruling for the Status Conference (calendar no. 4,
8/20/19 at 2:00 p.m.).

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch

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	Robert P Zahradka Dennise S Henderson
National Default Servicing	Represented By Robert P Zahradka Adam N Barasch Nichole Glowin Dennise S Henderson
BSI Financial Services, Inc.	Represented By Nichole Glowin Adam N Barasch Robert P Zahradka Dennise S Henderson

Movant(s):

FAY SERVICING, LLC	Represented By Nichole Glowin Adam N Barasch Robert P Zahradka Dennise S Henderson
Wilmington Savings Fund Society,	Represented By Nichole Glowin Adam N Barasch Robert P Zahradka Dennise S Henderson
BSI Financial Services, Inc.	Represented By Nichole Glowin Adam N Barasch Robert P Zahradka Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz	Represented By Dennise S Henderson Adam N Barasch
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

2:00 PM

CONT...

Juernaldo Cordon Cruz

Nichole Glowin
Robert P Zahradka

Chapter 11

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, August 20, 2019

Hearing Room 1545

2:00 PM

2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

- #4.00** Cont'd status conference re: Complaint for (1) Wrongful Foreclosure; (2) Violation of California Civil Code § 2934a(a)(1)(A)(C)(D); (3) Intentional Misrepresentation; (4) Negligent Misrepresentation; (5) Violation of California Business & Professions Code § 17200, Et Seq.; (6) Violation of Homeowner Bill of Rights ("HBOR"); (7) Breach of Contract; (8) Fraud; (9) False Promise; (10) Intentional Infliction of Emotion Distress; (11) Negligent Infliction of Emotional Distress; (12) Declaratory Relief; (13) Violation of Automatic Stay
fr. 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances required. The tentative ruling is (A) to grant the defendants' motions to dismiss Debtor's Complaint (the "MTDs," adv.no. 2:19-ap-01103-NB), without leave for Debtor to amend his Complaint, (B) to deny Debtor's motion for contempt (the "Contempt Motion," dkt. 197), without leave to amend that motion, and (C) to continue the status conference in this adversary proceeding to 10/29/19 at 2:00 p.m., and set a concurrent status conference in the bankruptcy case itself, with a direction to Debtor to file a brief status report in both proceedings no later than 10/15/19.

(1) Overview

(a) Contentions

The parties' disputes arise from a stipulation gone wrong. See Stip. (dkt. 135, the "Stipulation"), approved by Order (dkt.107). Debtor asserts that the Stipulation had the effect of substituting him in place of the original borrower. Debtor claims that the bearer of the promissory note, Bank of America, N.A. ("BofA"), and its agents including its loan servicers (with BofA, "Creditors"), wrongfully refused to communicate with him, refused to accept some payments, and wrongfully foreclosed on his rental property at 12902 Fairford Ave., Norwalk, CA (the "Fairford Property").

Creditors assert that Debtor was never substituted as a new borrower.

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They dispute that they ever refused to accept any payments.

Alternatively, Creditors argue that, even if there is a factual dispute about whether Debtor tendered some payments, Debtor never alleges in his Complaint that he tendered all payments. In fact, according to Creditors, Debtor failed to make a substantial number of payments - *i.e.*, even if he had been substituted as the borrower under the loan documents he was in default anyway, so the Fairford Property was subject to foreclosure.

(b) Summary of analysis

As set forth below, a fair reading of the Stipulation is that, as Debtor asserts, he was effectively substituted for the original borrower. In effect, the Stipulation and the Plan rewrote the terms of the loan and made Debtor the borrower and mortgagor.

But Debtor does not allege in his Complaint or in his opposition to Creditors' MTD that he tendered the (much reduced) payments he promised. So the Fairford Property was subject to foreclosure regardless whether he was or was not recognized as the borrower.

Debtor also complains that the creditors refused to communicate with him, but he has not alleged how any lack of communication caused him any harm, or how a failure to communicate is itself grounds to state some sort of a claim (*e.g.*, some sort of presumptive statutory damages for non-communication).

The tentative ruling is that Debtor's Complaint does not state a claim either based on any allegedly wrongful refusal to accept payments, or for failure to communicate, or for foreclosure. Therefore it appears appropriate to grant the MTDs, and the remaining question is whether to grant leave to amend.

Conceivably Debtor could assert that, if he had only been able to communicate with Creditors, they might have granted him a further loan modification. That might (or might not) state a claim under the Homeowner Bill Of Rights ("HBOA") (Cal.Civ.C. 2923.7) or some other claim.

But any allegation that Debtor was deprived of an opportunity to obtain a further loan modification appears to be implausible, on the record presently before this Court. BofA and Debtor previously stipulated that it had a secured claim of \$383,000.00 (Stip., dkt. 105, p.3:22-24), but BofA nevertheless agreed to modify the loan down to \$250,000.01 (Disclosure Statement, Ex.H, Endnote 2, at dkt.130-2, PDF p.3), as a result of which Debtor now asserts that he had \$200,000 of equity in the Fairford Property (dkt. 197, p.11:13-18).

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This Court is not aware of any reason why a creditor who is (allegedly) so oversecured would voluntarily agree to write down its debt even further, so it is not apparent how Debtor was harmed by any inability to communicate with Creditors. Therefore, the tentative ruling is to grant the MTDs without leave to amend.

Debtor's Contempt Motion is subject to the same obstacles set forth above: (i) Debtor's apparent lack of harm from refusal to accept partial payments, because he could not afford full payment; and (ii) the lack of apparent harm from non-communication, because he had no plausible ability to obtain a further loan modification.

Alternatively, the Contempt Motion is subject to a more fundamental flaw: Debtor asserts violation of the discharge injunction, but he never obtained a discharge order. Alternatively, Debtor has not alleged any *in personam* collection efforts, only *in rem*, and *in rem* acts do not violate any discharge injunction.

For each of these alternative reasons, the tentative ruling is to deny the Sanctions Motion without leave to amend.

(2) Procedural history

Two separate proceedings are involved.

(a) The Complaint

On 4/9/19 Debtor filed a Complaint commencing an adversary proceeding (the "Complaint," adv. no. 2:19-ap-01103-NB, adv. dkt. 1). The Complaint seeks damages of not less than \$1.5 million (*id.*, p.33:23), based on claims for wrongful foreclosure, intentional and negligent misrepresentation, fraud, violation of the HBOR, violation of the automatic stay (11 U.S.C. 362(a)), etc. The Complaint names as defendants BofA; Fay Servicing, LLC ("Fay"); Wilmington Savings Fund Society, FSB d/b/a Christiana Trust, Not Individually But As Trustee For Hilldale Trust ("Wilmington"); BSI Financial Services, Inc. ("BSI"); and National Default Servicing Corporation ("NatDefault").

Responding to the Complaint, MTDs have been filed by BofA (adv.dkt.8,9) and by Fay, Wilmington and BSI (collectively, the "Fay Parties," adv.dkt.11,13). NatDefault has filed a joinder in the Fay Parties' MTD (adv.dkt.15). Debtor has filed opposition papers (adv.dkt. 24-27), and BofA and Fay have filed replies (adv.dkt. 28, 29).

(b) Contempt Motion

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On 6/26/19 Debtor filed a motion for damages pursuant to 11 U.S.C. 105 (the "Contempt Motion," dkt. 197). The Contempt Motion seeks damages of \$400,000 in emotional distress damages, \$200,000 for loss of equity to the property, \$70,000 for improvements to the property, and miscellaneous other damages. Dkt. 197, p.11:13-18. The Contempt Motion alleges that BofA willfully failed to adhere to the terms of the Stipulation, and it asserts that in doing so BofA violated the discharge injunction (11 U.S.C. 524(a)(2), as modified by 11 U.S.C. 1141(d)(5)).

Responding to the Contempt Motion, BofA has filed opposition papers (dkt. 205, 206). So have the Fay Parties (dkt.202-04), on the basis that Debtor "implies that Fay and BSI could be liable for their conduct in servicing the loan and in proceeding with foreclosure." Adv.dkt.202, p.2:20-21. Debtor has filed reply papers (dkt. 208).

(3) Procedural issues

(a) Jurisdiction, and request for abstention

BofA argues that Debtor asserts only State law claims. See BofA MTD (adv.dkt.8) p.1:13-14. The Fay Parties make a similar argument. See Reply-MTD (adv.dkt.28) pp.3:7-4:26. Based on these assertions they question this Bankruptcy Court's jurisdiction and assert that this Court should abstain.

Those arguments are not persuasive. First, technically, Debtor's Complaint (adv.dkt.1) asserts a claim for violation of the automatic stay (11 U.S.C. 362(a)), and Debtors' Contempt Motion (main case, dkt. 197) asserts a violation of the discharge injunction (11 U.S.C. 524), and those are claims arise under the Bankruptcy Code. True, this Court's tentative ruling is that neither claim has merit, but until this Court reaches the merits those claims do create "arising under" jurisdiction. 28 U.S.C. 1334.

More importantly, the remaining claims asserted by Debtors are founded on the Stipulation and, at least implicitly, Debtors' chapter 11 plan (the "Plan," dkt.129) and this Court's orders approving the Stipulation (dkt.107) and confirming the Plan (the "Confirmation Order," dkt.151). The effect of all of those things (according to Debtors, and this tentative ruling) was to restructure Debtor's relationship with BofA and substituting Debtor in place of the original borrower.

The Stipulation, the Plan, and this Court's orders all arose in this bankruptcy case, and this Court is in the best position to interpret the Stipulation, the Plan, and this Court's own orders based on the facts and

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circumstances of this bankruptcy case. In addition, the Plan provides that (with inapplicable exceptions) this Court retains post-confirmation jurisdiction over a wide range of proceedings, including "sanctions" and "the implementation, interpretation, or enforcement of this Plan" See Plan, dkt.129, p.6, Article V, Part. F.

For all of these reasons the tentative ruling is that this Court has jurisdiction, and that abstention would be inappropriate. See 28 U.S.C. 1334 and *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal. 2004); *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

(b) Whether the Contempt Motion should have been filed in the adversary proceeding instead of the bankruptcy case

In general, civil contempt must be sought by a contested matter rather than an adversary proceeding. See *Barrientos v. Wells Fargo Bank, N.A.*, 633 F.3d 1186, 1190-91 (9th Cir. 2011). But in this instance the Contempt Motion, which was filed in the main case (albeit with the double-caption of an adversary proceeding) arises from the same nucleus of operative facts as the Complaint, and in addition the Contempt Motion was filed after the Complaint, so perhaps Debtors' claim about violation of the discharge injunction and request for sanctions should have been included in the adversary proceeding, either as one of Debtor's claims or perhaps as a separate motion. But the tentative ruling is not to address this issue: it has not been briefed, and the tentative ruling is that this Court need not decide this issue *sua sponte*. See *In re Nash*, 464 B.R. 874, 879 (9th Cir. BAP 2012) (harmless error to use wrong proceeding).

(4) Merits of the MTDs and the Complaint

(a) Interpretation of the Stipulation, and related documents

The stipulation (dkt. 197, Ex.C, at PDF pp.22-28) reads like an agreement to treat Debtor as the substituted borrower. It obligates Debtor to make payments on BofA's secured claim in a specified dollar amount each month, at a specified interest rate, and provides that BofA will retain its security interest "until the secured claim is paid in full per the terms of the Note and Deed of Trust as modified by this Stipulation." *Id.* para.4. Why would Debtor and BofA agree to these things unless they intended to treat Debtor as the new mortgagor?

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Even more telling, the remaining portion of BofA's claim is treated as an unsecured claim against Debtor (*id.*, para. 7) - in other words, Debtor is treated as having personal liability on the debt. Why would BofA and Debtor so stipulate unless Debtor had been substituted for the original borrower under the promissory note?

The Stipulation is incorporated into the Plan and the Confirmation Order. The latter states that "Class 2B creditor, Bank of America, N.A. ("B of A"), shall be entitled to immediate relief from the automatic stay and the claim shall be treated consistent with the Stipulation between Debtor and B of A (Docket No. 105), approved by Order of the Court (Docket No. 107)." Confirmation Order (dkt.151), p.2:18-21 (emphasis added).

For all of these reasons, the tentative ruling is that Debtor's interpretation of the Stipulation is correct. Debtor should have been recognized by BofA as having been substituted for the original borrower, and, at least once this was pointed out to BofA, it should have corroborated that fact to the other Creditors.

The question is whether Debtor has asserted any cognizable claims based on Creditors' refusal to recognize him as the borrower. The tentative ruling is that Debtor has not stated any such claims.

(b) Debtor's allegations: not accepting payments; not communicating; and foreclosing

Debtor asserts a failure to accept some payments. See, e.g., Complaint (adv.dkt.1) para.113, at p.23:21-26. Creditors dispute this, and also assert that Debtor never tendered enough to cure the defaults. Debtor's allegations in the Complaint never say otherwise. BofA cites authority that this is fatal to Debtor's claims for wrongful foreclosure. See BofA MTD (adv.dkt.8), pp.8:17-9:11.

Debtor also cite no authority that there is any duty to accept partial payments. Nor does Debtor explain how, even if there was such a duty, he was damaged by the refusal to accept partial payments. If he could not afford to make full payments, he was subject to foreclosure, and therefore if he was prevented from making partial payments it appears that he was only prevented from throwing good money after bad.

The Complaint alleges a failure to communicate with Debtor, but most of Debtor's claims do not assert any duty to communicate with him. An exception is the 6th claim for relief (adv.dkt.1, p.20:12 et seq) asserts violation of the HBOR (Cal.Civ.C. 2923.7) which does appear to establish a duty to

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communicate with the borrower (through a single point of contact). But, again, it is unclear how Debtor suffered any harm from any lack of communication.

To the contrary it appears that lenders have no duty to offer, consider, or approve loan modifications. See, e.g., *Sheen v. Wells Fargo Bank, NA*, ___ Cal.App.5th ___ (2d Div. 8/5/2019).

The Complaint's eighth claim for relief (adv.dkt.1, p.25:3 et seq.) alleges fraud in inducing Debtor to enter into the Stipulation if, despite making payments, Debtor would be subject to foreclosure. There appear to be grounds for that assertion but, again, Debtor has not established any harm from Creditors' failure to recognize him as successor to the original borrower pursuant to the Stipulation, because he has not asserted that he tendered the full monthly payments.

As set forth in the Overview (part "(1)" of this tentative ruling) the bottom line is that the Complaint does not appear to state any claims on which relief may be granted. Nor is it apparent how Debtor could amend the Complaint to state a viable claim.

(5) Merits of the Contempt Motion

Debtor seeks a determination that Creditors are in contempt of court for violation of the discharge injunction, and Debtor seeks compensatory damages, pursuant to 11 U.S.C. 105(a). See Contempt Motion (dkt. 197), p.8:22-24 (asserting violation of "an order issued by this Court - i.e., the Discharge Order"). See also, e.g., *In re Dyer*, 322 F.3d 1178, 1190 (9th Cir. 2003). Debtor has the burden to establish, by clear and convincing evidence, that Creditors violated a specific and definite order of this Court, including a "deemed" order such as the automatic stay (11 U.S.C. 362) or the discharge injunction (11 U.S.C. 524). See *id.* and *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999).

(a) Debtor has not established that he ever received a discharge

Debtor has not established any violation of a discharge injunction because, under 11 U.S.C. 1141(d)(5), an individual debtor is not discharged "until the court grants a discharge on completion of all payments under the plan," unless the court orders otherwise for cause after notice and a hearing. Nothing in the Plan or the Confirmation Order suggests otherwise. See Plan (dkt.129), Article IV.A. (discharge is per section 1141(d)); Confirmation Order (dkt. 151) (all terms and conditions of Plan are incorporated into order).

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For this reason, this Court's local forms permit a chapter 11 case to be closed on an interim basis and reopened later "so that a motion for entry of discharge ... may be filed and resolved." See dkt. 170, p.3, para.3.b. The docket does not reflect any motion for entry of a discharge, and the 60 month term of the Plan has yet to run, so apparently he is not yet eligible for a discharge. Accordingly, there could be no violation of any discharge injunction.

(b) The discharge injunction only prohibits *in personam* collection, and Debtor only alleges *in rem* acts

The discharge injunction in section 524 states:

(a) A discharge under this title --

(2) operates as an injunction against the commencement or continuation of an action, the employment of process, or any act, to collect, recover or offset any [discharged] debt as a personal liability of the debtor, whether or not discharge of such debt is waived [11 U.S.C. 524(a)(2) (emphasis added)]

Because the discharge injunction only prohibits efforts to collect debts as a personal liability of the debtor, "secured creditors can foreclose their liens after the discharge is entered." *In re Marino*, 577 B.R. 772, 783-84 (9th Cir. BAP 2017) (citations and internal quotation marks omitted)).

Debtor does not allege any *in personam* collection efforts. He asserts wrongful foreclosure, but foreclosure is an *in rem* act. Therefore, even if the discharge injunction applied (which it does not), Debtor's allegations would not establish any violation of that injunction.

(6) Conclusion

For all of the foregoing reasons, the tentative ruling is to grant the Creditors' MTDs, dismiss the Complaint without leave to amend, and deny Debtor's Contempt Motion without leave to amend. The tentative ruling is to continue the status conferences so that the parties have time to consider what they will do next, and so that this Court can address any ancillary matters that may be presented.

Tentative Ruling for 7/30/19:

Continue to 8/20/19 at 2:00 p.m. (1) in view of the notice of unavailability of Plaintiff/Debtor's counsel (adv. dkt. 20) and (2) to be concurrent with the pending motions to dismiss (adv. dkt. 8, 11, 15). Appearances are not

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required on 7/30/19.

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

National Default Servicing

Represented By
Robert P Zahradka
Adam N Barasch

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Chapter 11

BSI Financial Services, Inc.

Nichole Glowin
Dennise S Henderson

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

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Chapter 11

**#4.10 Hrg re: Motion For Sanctions against Bank of America, N.A.
for violation of court order**

Docket 197

Tentative Ruling:

Please see the tentative ruling for the Status Conference (calendar no. 4,
8/20/19 at 2:00 p.m.).

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Movant(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#5.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 5/7/19, 05/21/19, 6/18/19, 7/30/19

Docket 76

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 7, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5, 7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

Movant(s):

United States Trustee (LA)

Represented By

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Jackies Cookie Connection LLC

Dare Law

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2:18-24571 Jackies Cookie Connection LLC

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#6.00 Cont'd hrg re: Motion for Order: (1) Approving Asset Purchase Agreement and Authorizing the Sale of Property Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. § 363(b) and (f); (2) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; (3) Approving the Form and Manner of Notice; and (4) Approving Buyer as Good Faith Purchaser Pursuant to 11 U.S.C. § 363(m) fr. 5/7/19, 05/21/19, 6/18/19, 7/30/19

Docket 80

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 7, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5, 7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico

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CONT... Jackies Cookie Connection LLC

Chapter 11

Marlee E Sherman
Michael S Kogan

Movant(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019, 5/7/19, 05/21/19, 6/18/19, 7/30/19

Docket 5

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances required.

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80);
supplemental brief ("Haloossim Brief," dkt. 128), Debtor's reply (dkt. 129)

At the 7/30/19 hearing, this Court set deadlines for additional briefing re overbidding or other remedies for Ms. Galant's alleged failure to comply with purchase of equipment (Sale Part 2). The tentative ruling is that (i) to the extent, if any, that the Haloossim Brief challenges the sale process and seeks reconsideration of the order (dkt.113) granting the Sale Motion, it is denied because it does not address the standards for reconsideration, but (ii) on other issues the Haloosim Brief is persuasive: under the sale order (dkt.113) Ms. Galant (or a company owned by her) was required by May 21, 2019 to pay \$100,000 to the estate (in addition to any cure payments) if she wanted to foreclose the possibility of modifying the proposed sale of the Part 2 assets, such as by opening up the purchase to competing bidders, with a minimum bid by Ms. Galant of \$50,000.

The parties are directed to address what remedy is appropriate. If reopening sale Part 2 for an auction is the appropriate remedy, the parties should be prepared to address when to hold an auction, what procedures should apply, and whether Debtor can manage that process given that Ms. Galant is Debtor's principal, and given the issues raised in the Haloossim Brief about whether the Part 2 assets were adequately exposed to the market in the past.

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or
appoint a Chapter 11 trustee (the "UST Motion", dkt. 76)

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Jackies Cookie Connection LLC

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The parties should be prepared to address whether to grant the UST Motion and, if so, which remedy is in the best interests of creditors and the estate under 11 U.S.C. 1104 and 1112.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (not timely served but excused, dkt. 120)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/24/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

At the 6/18/19 hearing, this Court was informed that payments under Part 1 of the sale were complete but some equipment had yet to be removed, and Part 2 was still being funded. What is the current status of these matters?

Continue to the same date and time as the continued status conference, as set forth below.

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Continue to the same date and time as the continued status conference, as set forth below.

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(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 8/20/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/18/19:

Appearances required.

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

There has been little activity on the docket since the last status conference in this case, and it is unclear whether Sale Part One has closed. Has Sale Part One closed? If so, what progress has been made re Sale Part Two? Should this Court continue the Sale Motion to the same time as the continued status conference (see below)?

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Should this Court continue the Conversion Motion to the same time as the continued status conference (see below)?

(c) Amended bar date order (dkt. 112)

This Court issued its Amended Order Setting Bar Date (dkt. 112), directing service by Debtor be completed by 5/24/19. The docket does not

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reflect any proof of service. Was the order timely served? If so, the tentative ruling is to set a deadline of 6/19/19 to file a proof of such service; and if not, the tentative ruling is to issue a new order setting a new bar date.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 7/30/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances required.

(1) Current issues

(a) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

At the hearing on 5/7/19 this Court adopted the tentative ruling and granted the Sale Motion, with a waiver of the 14-day stay under 6004(h), subject some modifications. First, although this Court overruled objections and approved Sale Part One (as described in the Sale Motion), this Court set this continued hearing on 5/21/19 to address whether that sale has closed, and to resolve any issues involving the dollar amounts need to (i) cure leased equipment defaults or (ii) pay financed equipment liens.

Second, as to the proposed Sale Part Two, this Court ruled that the sale to Debtor's principal, Ms. Galant, is approved for a payment of \$100,000 and can close with no further order of this Court. But if it turns out that she is unable to pay that price (within the time frame outlined in the Sale Motion),

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and (i) if she proposes to pay between \$50,000 and \$99,999, then the parties would need to address what remedies are appropriate, such as opening up the proposed sale to overbids; and (ii) if she proposes to pay less than \$50,000 then the proposed Sale Part Two is disapproved, and the intellectual property (and miscellaneous assets included in Sale Part Two) would continue to belong to bankruptcy estate, and could be sold or otherwise addressed.

This Court directed Debtor to lodge a proposed order memorializing the foregoing rulings. As of the preparation of this tentative ruling, no such proposed order has been lodged. Why not?

In any event, are there any issues that are properly before this Court at this time in connection with the Sale Motion? Should this Court continue the Sale Motion to the same time as the continued status conference (see below)?

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

There is no tentative ruling, but the parties should be prepared to address the following issues. It is unclear whether Sale Part One has closed. This Court notes that there is a declaration (dkt. 107) of a real estate broker for Debtor's principal, Ms. Galant, regarding the listing of her property for sale (which was contemplated to fund the Sale Part Two); but there is no information about the refinancing the Ms. Galant was contemplating (which was contemplated to fund the Sale Part One).

Should this Court continue the Conversion Motion to the same time as the continued status conference (see below)?

(c) Bar date order (dkt. 108)

This Court issued its Order Setting Bar Date (dkt. 108), directing service by Debtor be completed by 5/10/19. The docket does not reflect any proof of service. What the order timely served? If so, the tentative ruling is to set a deadline of 5/22/19 to file a proof of such service; and if not, the tentative ruling is to issue a new order setting a new bar date.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 6/20/19 (but see above)

(b) Plan/Disclosure Statement*: N/A

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(c) Continued status conference: 6/18/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 5/7/19:
Appearances required.**

(1) Current issues

(a) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "Conversion Motion", dkt. 76)

Continue to to be heard concurrently with the continued status conference (see part "(2)" of this tentative ruling, below). If, prior to the continued hearing date, Debtor files a declaration that it has closed the proposed Sale Part One, this Court anticipates that the tentative ruling for the continued hearing will be to deny the Conversion Motion without prejudice.

(b) Debtor's 11 U.S.C. 363 sale motion (the "Sale Motion," dkt. 80); Oppositions (dkt. 87, 93), and Reply (dkt. 94, 96)

Grant the Sale Motion, but only on the following terms:

(i) Minimum dollar amount for Sale Part Two. Debtor's principal, Ms. Rachel Galant, is essentially agreeing to pay debts on which she is already the guarantor (Sale Part One, estimated at \$450,000), and if there is any money left over from the anticipated \$550,000 proceeds of the refinance and sale of her home, then that residual amount (estimated at \$100,000, but possibly much less, down to \$-0-) will be used to pay for Debtor's intellectual property and some *de minimus* assets (Sale Part Two).

The tentative ruling is that there must be a minimum dollar amount payable for Sale Part Two. That is essentially the consideration Ms. Galant must pay (beyond what she owes anyway, as a guarantor) for being able to

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continue her business without successor liability, based on the Bankruptcy Code's ability to sell property free and clear of an liability that would otherwise follow the assets (which is one type of "interest" in such property). See, e.g., *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003). See also *Myers v. U.S.*, 297 B.R. 774 (Bankr. S.D. Cal. 2003).

The tentative ruling is to set the minimum consideration for the Sale Part Two at not less than \$50,000. The tentative ruling is that this dollar amount is subject to overbids, as set forth below.

(ii) Overbids. The proposed sale must be subject to any overbids at the hearing, including any overbids that are not cash (in whole or in part), or that are for fewer than all assets, or any other combination of things. Any "highest and best" determination must be made initially by Debtor, but subject to any objections and resolution by this Court. See generally, e.g., *In re Lahijani*, 325 B.R. 282 (9th Cir. BAP 2005); *In re Mickey Thompson Entm't Group, Inc.*, 292 B.R. 415, 421 (9th Cir. BAP 2003).

(iii) Backup bids. Any sale must be subject to any backup bids, in the event the winning bidder does not timely close either Sale Part One or Sale Part Two. For example, if the proposed purchaser - Debtor's principal - were to close Sale Part One but fail to close the Sale Part Two, and if a backup bidder has been approved for Sale Part Two, then the backup bidder could acquire the Sale Part Two assets (Debtor's recipes, trademarks, and other intellectual property).

(iv) Deadline for resolution of any disputes regarding purchase/cure amounts for equipment. The motion lists some cure/payment amounts as "TBD." In addition, one creditor has objected. See Sale Motion (dkt. 82, Schedules A&B), and see Direct Cap. Corp. Obj. (dkt. 93) (asserting \$11,050.14 arrears plus \$5,411.34 attorney fees to date, for a total alleged cure amount of approximately \$16,461.48).

The tentative ruling is to set a deadline of **May 20, 2019** for Debtor to reach agreement with any equipment lessor/lienholder, or else those creditors will be free to repossess the equipment and must be given access to do so on 24 hours' notice. The reason is that the equipment must be removed by the end of May, or the bankruptcy estate will "abandon" the equipment (technically, an "abandonment" under 11 U.S.C. 554 is abandonment from the estate to Debtor; but Debtor apparently means that it intends to leave the equipment at the landlord's premises, for disposition by the landlord - this Court expresses no opinion whether that would create any

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postpetition liability, or what competing rights might exist in the equipment at that point). Any dispute can be addressed at the continued hearing on the same date as the continued status conference (see below).

(v) Good faith finding

Any "good faith" finding under 11 U.S.C. 363(m) will need to be supported by sufficient evidence (see the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov). Normally that would include more information than what is Ms. Galant's declaration. See Dkt. 82, p.6:1-7. But the tentative ruling is to accept that declaration, combined with the purchase price above the debts for which she is personally liable and the agreement to turn over to Debtor any profit on resale of equipment, as sufficient *prima facie* evidence of good faith.

As to the objection of the "Objecting Creditors" (Mr. Haloosim *et al.*, dkt. 87), this Court is inclined to agree with Debtor that, on the present record, there is a *prima facie* showing by Debtor of sufficient marketing, and insufficient evidence of any improper conduct by Debtor. As for their objections under 11 U.S.C. 363(f), this Court questions whether they have an "interest" in the property to be sold and, if not, whether they have standing to raise any objections. In addition, as stated in the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov):

§ 363(f): Sales free and clear. Regarding § 363(f)(5), Judge Bason does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under that statute whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, Judge Bason has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money satisfaction (which might be \$-0- in the case of an interest

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that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). *See* Cal. Code Civ. Proc. ("CCP") §564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/21/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

(1) Current issues

This Court has reviewed the debtor's latest filed documents and is not aware of issues that would warrant a status conference at this time.

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(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 5/7/19 at 2:00 p.m., to be concurrent with the motion of the United States Trustee to convert or dismiss this case (dkt. 76, 90) and Debtor's 363 sale motion (dkt. 80). No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required for the status conference, but not for the abandonment motion. Telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Dismissal or conversion

Debtor's fourth status report alleges (dkt. 62, p.2:10) that a "363 motion, supported with a stalking horse bid, will be submitted to the court" at some unspecified future date. This Court and parties in interest have heard that hope before, but it appears highly unlikely that Debtor will receive a bid that will exceed the losses that are accruing meanwhile.

Debtor's situation appears to be getting steadily worse, both on a cash basis and in terms of accrued liabilities for postpetition real property rent, equipment leasing, etc. See MOR for Jan. 2019 (dkt. 57) (small positive cash flow, but \$48,522.19 in postpetition payables as against \$6,281.31 receivables) *and* MOR for Feb. 2019 (dkt. 63) lines 22-25 (net cash flow of

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(\$1765.14) and increase in payables to \$96,380.19 - almost double the prior month - as against \$6,281.31 receivables - unchanged).

The tentative ruling is to dismiss this case and let Debtor and its secured creditors/equipment lessors make whatever arrangements they see fit for disposing of the collateral/leased equipment. (Office of the United States Trustee to lodge proposed order.)

(b) Motion to Compel Abandonment of Property (dkt. 59)

Grant. (Movant Shmashssma, LLC to lodge proposed order.)

Proposed orders: The above-referenced parties are directed to lodge proposed orders via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: N/A

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current issues.

Debtor's status report (dkt. 55) reports some alleged progress in exploring either sale(s) of assets or sale of the business or both. What is the timeline? What assurances do creditors have that debtor's uncertainty on these issues (two months into this case) will not deplete rather than enhance any potential recoveries?

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(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., with a *brief* status report due 3/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. Continue as set forth below.

(1) Current issues.

Debtor should be prepared to address why it did not file a status report as required by the Court's ruling at the 1/15/19 hearing.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 2/26/19 at 1:00 p.m., with a *brief* status report due 2/19/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/15/19:

Appearances required.

(1) Current issues.

At the Status Conference on 1/8/19 this Court was persuaded not to dismiss this case. Debtor is directed to address (a) negotiations with the landlord regarding the pending motion for relief from the automatic stay and related issues regarding the commercial kitchen (see calendar no. 12, 1/15/19 at 10:00 a.m.) and (b) progress regarding Debtor's exit strategy (possible sale, refinancing, equity investment, contributions from family, etc.).

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a *brief* status report due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

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(a) Case Status Report

In the Amended Order Setting (A) Principal Status Conference and (B) Procedures (dkt. 4), this Court directed the Debtor to file and serve a Case Status Report on Local Form F 2081-1.1.C11.STATUS.RPT at least 14 days before this hearing. As of the preparation of this tentative ruling the Debtor has not done so. Why not?

(b) First day motions

Debtor has not filed any payroll motion, motion for use of cash collateral, budget motion, utility motion, or other typical "first day" motions. This Court recognizes that Debtor is in the process of formulating its strategy (dkt. 20, p.4:17-21), and has requested an extension of time to file bankruptcy schedules and other documents (dkt. 19), but none of that excuses the failure to file any required first day motions.

(c) Dismissal? Bar?

Debtor is directed to address why this Court should not dismiss this case with a 180 day bar against being a debtor in bankruptcy, under 11 U.S.C. 109(g)(1), for willful failure to abide by an order of this court, or willful failure to appear in proper prosecution of this case, or both.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: if this Court is persuaded not to dismiss this case, the tentative ruling is to continue this Status Conference to 1/29/19 at 1:00 p.m., with a status report on the required form (see above) due 1/22/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

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Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#8.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19;
08/06/19

Docket 43

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 4/30/19 at 11:00 a.m.)

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 10, 4/9/19 at 11:00 a.m.)

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CONT... Attitude Marketing, Inc.

Chapter 7

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim

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2:16-21559 David MacMillan

Chapter 7

#9.00 Hrg re: Application for payment of interim fees
and/or expenses for LEA Accountancy LLP

Docket 398

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 12,
8/20/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Movant(s):

LEA Accountancy LLP

Pro Se

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#10.00 Hrg re: First interim application for fees and reimbursement of costs of Dumas & Kim, APC., counsl for trustee

Docket 394

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 12, 8/20/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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#11.00 Cont'd hrg re: Motion for Turnover of Estate Property and Accounting
fr. 05/21/19, 06/04/19, 7/2/19; 08/06/19

Docket 355

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the status conference (calendar no. 12, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference (calendar no. 4, 6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 12, 5/21/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Movant(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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CONT... David MacMillan

Christian T Kim

Chapter 7

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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#12.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19
08/06/19

Docket 332

Tentative Ruling:

Tentative Ruling for 8/20/19:

This Court must continue this hearing to 9/24/19 at 2:00 p.m. to finalize its decision on these matters. Appearances are not required on 8/20/19.

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Calendaring

Continue the following matters to 8/6/19 at 2:00 p.m., with no status reports required:

(i) Status Conference, *In re Attitude Marketing, Inc.* (Case No. 2:19-bk-10552-NB) (calendar no. 11, 7/2/19 at 2:00 p.m.).

(ii) Status Conference, *In re David MacMillan/Cynthia Martin* (Case No. 2:16-bk-21559-NB) (this calendar no. 12, 7/2/19 at 2:00 p.m.).

(iii) Status Conference, *Gonzalez v. MacMillan et al* (Case No. 2:16-ap-01545-NB) (calendar no. 16, 7/2/19 at 2:00 p.m.).

(iv) Status Conference, *Wyndham Vacation Resorts, Inc. v. MacMillan et al* (Case No. 2:17-ap-01229) (calendar no. 18, 7/2/19 at 2:00 p.m.)

(b) Chapter 7 Trustee's motion for turnover and accounting ("Turnover Motion," In re MacMillan, Case No. 2:16-bk-21559-NB, dkt. 355, 356),

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Opposition Declaration (dkt. 361), Reply (dkt. 362), Wyndham Statement in Support (dkt. 368), Debtor MacMillan Supp. Decl. (dkt. 369), Trustee's Supplemental Reply (dkt. 371), and Debtor MacMillan Second Supp. Decl. (dkt. 379)

The tentative ruling is that Debtors have adequately explained the disposition of the Lotus race cars after review of the MacMillan second supplemental declaration (dkt. 379).

The Trustee should be prepared to apprise this Court about inspection of the Porsches, and any other outstanding issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19: [No tentative ruling was posted.]

Tentative Ruling for 5/21/19:
Appearances required.

(1) Current issues

(a) Calendaring

Continue the following matters to 6/11/19 at 2:00 p.m., to be concurrent with the motion for summary judgment in *Wyndham v. MacMillan et al.* (Adv. No. 2:17-ap-01229-NB, jointly administered with Adv. No. 2:17-ap-01551-NB), with no status reports required:

(i) Status Conference, *In re Attitude Marketing, Inc.* (Case No. 2:19-bk-10552-NB) (calendar no. 16, 5/21/19 at 2:00 p.m.).

(ii) Status Conference, *In re David MacMillan/Cynthia Martin* (Case No. 2:16-bk-21559-NB) (this calendar no. 12, 5/21/19 at 2:00 p.m.).

(iii) Motion for summary judgment in *Gonzalez v. MacMillan* (Adv. No. 2:17-ap-01545-NB) (originally self-calendared for 11:00 a.m. on 6/4/19, then moved by this Court sua sponte to 2:00 p.m. on 6/4/19).

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(b) Chapter 7 Trustee's motion for turnover and accounting ("Turnover Motion," In re MacMillan, Case No. 2:16-bk-21559-NB, dkt. 355, 356), Opposition Declaration (dkt. 361), Reply (dkt. 362)

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The tentative ruling is that Trustee has established on a *prima facie* basis that Debtors had an ownership interest in two Porches and three Lotus vehicles, and the burden is on Debtors to establish that they no longer have such an interest. The tentative ruling is that Debtors have only met that burden with respect to one vehicle (the Lotus as to which there is evidence of a sale to Debtor MacMillan's brother).

First, as a procedural matter, Debtors had an opportunity to respond to the Turnover Motion by the deadline established by the Local Bankruptcy Rules; they did not request additional time to respond; and, even if they had made such a request, they have not (on the present record) established any cause to be granted additional time. Second, based on the limited evidence provided by Debtors, they have not rebutted the Trustee's *prima facie* showing (except as to the one vehicle noted above).

For example, it appears that Debtors are the owners of record for at least three Lotus race cars - two Lotus Evoras and one Lotus 211. Dkt. 332, p. 6. Debtor MacMillan's declaration (dkt. 361) provides very little information about these vehicles.

Debtor MacMillan asserts that one Lotus vehicle was totaled around February 2012 (dkt. 361, p.3, para. 9), and that he no longer has any paperwork relating to that vehicle. But (i) the one photograph that he provides (allegedly of the subject vehicle) does not appear to show that it was totaled; (ii) he fails to explain why he lacks any paperwork; and (iii) normally one would expect to have paperwork regarding the loss of such a valuable vehicle, such as insurance papers, or tax returns for Debtor MacMillan or one of his businesses showing a write-off based on loss of the vehicle, or other records and documents. Although it is conceivable that there are explanations and documents that would establish that Debtor MacMillan does not still own this vehicle, he has not met his burden to rebut the Trustee's

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prima facie showing, and the deadline to do so has passed.

In addition, although the tentative ruling is that Debtor MacMillan has met his burden insofar as the unregistered 2011 Lotus Evora that allegedly was sold to his brother by Rasco/Racso (the spelling is unclear) in March 2016 (dkt. 361, p. 3, para 12), it appears that the Lotus Evora sold to Debtor's brother is not the same Lotus Evora mentioned in para. 10 (see dkt. 362, p.2:22-28). There is no evidence to rebut the *prima facie* showing as to that Lotus vehicle. Nor is there any evidence to rebut the *prima facie* showing as to the two Porches. Nor has Debtor Martin filed anything in response to the Turnover Motion.

The tentative ruling is to direct Debtors to turn over the two Lotus vehicles and the two Porches to the Chapter 7 Trustee, together with all associated papers and materials (e.g., car keys), **no later than 5/28/19**, or be subject to possible sanctions. This Court recognizes that, if Debtors truly do not possess some of these four vehicles, or if those vehicles belong to another entity, then perhaps they will be unable to turn over the vehicles despite any order of this Court directing them to do so. But the tentative ruling is that, having chosen not to take the Turnover Motion seriously enough to rebut the Trustee's *prima facie* showing, or to request additional time to do so, Debtors have waived and forfeited that opportunity, and the Turnover Motion must be granted.

Debtors' apparent remedy will be (i) to seek reconsideration (e.g., under Rule 9023), or, (ii) if they are held in contempt for violating the Turnover Motion, to meet their burden to show impossibility (or to establish any other viable defense to a finding of contempt). The parties should be prepared to address the present location and condition of the vehicles, where the Trustee needs them to be delivered, and any other specifics that this tentative ruling does not address.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 4/30/19:

Continue to 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.
Appearances are not required on 4/30/19.

This Court is not aware of any issues that warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required. The parties should be prepared to address the following issues.

Current issues

(a) Procedures

This Court issued its Order Setting Status Conference in All Related Matters (the "Procedures Order," dkt. 332). See *a/so* dkt. 334 & 338 (proofs of service). Among other things, the Procedures Order was prompted by the following.

First, an exhibit was filed without a cover page and with the exhibit pages out of order rendering the exhibit difficult to read (see dkt. 324, ex. 1). Second, briefs have gone on for 80 pages or more, with whole sections that appear to be at best tangentially related to the subject matter and appear to have been copied and pasted wholesale from other papers (but with no statement to let the reader know if those sections are or are not different in some way). See dkt. 326, 330. Third, those same papers, with exhibits included, are over 2000 pages long. Fourth, some papers appear to raise frivolous arguments (see below).

The tentative ruling is as follows with respect to procedures in all of the adversary proceedings and contested matters in these related bankruptcy cases:

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(i) Page limits. Set a limit of 25 pages for any brief, and 50 pages of attached or accompanying documents, absent prior authorization to exceed those limits. The documents can be excerpts, marked up to point the reader to the relevant phrase or item, provided that (x) any original markings on the documents are clearly distinguishable from any added markings and (y) upon request full copies of all exhibits are immediately made available to all other parties and this Court.

(ii) Incorporation by reference. Direct all parties, rather than repeating their arguments and exhibits, to incorporate them by reference. In addition, to the extent any material does not exactly repeat prior material, but parallels prior material in substantial part, the tentative ruling is that the party must explain what is new or different.

For example, instead of a 10-page recitation of background facts in which one sentence is different, the party would replace those 10 pages with that one sentence and a brief summary of the relevant aspects of the prior material, with a cross-reference to the docket number of the material that is incorporated by reference. Alternatively, if the approach in the immediately preceding sentence would not be practical or would be confusing in any particular situation, then the party would add a footnote both at the start of the factual summary and at the start of the new or different sentence, to alert the reader that this is the portion that is new or different. Alternatively, the party could adopt any other suitable method for highlighting new or different material. In any event, all parties are directed to use whatever method is most reader-friendly for presenting accurate, relevant material.

(iii) Bifurcating or combining any matters, and issuing judgments on partial findings and/or final judgments on fewer than all claims or parties. The claim objections that are set for hearing today violate at least the spirit, and probably the letter, of Rule 3007(b) (Fed. R. Bankr. P.) ("A party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding."). In any event, any future claim objections involving the same nucleus of operative facts as any pending adversary

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proceeding must be raised through proper pleadings or motions in those adversary proceedings, not by separate claim objections.

In addition, there is no reason to litigate all of the numerous issues raised by the parties if it appears that it would be more efficient to litigate just one or two issues first, and enter judgements on partial findings, and/or enter final judgments as to fewer than all claims or parties (based on any express determination that there is “no just reason for delay”) (Rules 52 & 54(b), Fed. R. Civ. P., incorporated by Rules 7052, 7054 & 9014(c), Fed. R. Bankr. P.). For example, if a hypothetical chapter 7 debtor were accused of dozens of acts and omissions that could warrant either nondischargeability of individual claims (11 U.S.C. 523) or denial of the entire discharge (11 U.S.C. 727), there might be no just reason not to enter a judgment determining a single issue, after bifurcation so as to have a separate trial on that issue. In this situation the single issue might be whether the hypothetical debtor had concealed or failed to maintain adequate recorded information (under section 727(a)(3)), which, if proven, presumably would moot the other issues under sections 523 and 727.

The parties are directed to address whether this Court should adopt such procedures for one or more issues in these cases and the related adversary proceedings and contested matters, or conversely whether this Court should combine various matters for joint hearings or trials. See Rule 42 (Fed. R. Civ. P., incorporated by Rules 7042 & 9014(c), Fed. R. Bankr. P.).

(iv) Testimony by declaration. Direct testimony must be presented by declaration, subject to live cross-examination and redirect (see Rule 611(a); *In re Gergely*, 110 F.3d 1448, 1451-52 (9th Cir. 1997); *In re Adair*, 965 F.2d 777, 779-80 (9th Cir. 1992)).

(v) Time limits. The parties are hereby put on notice that this Court at any time may limit their time for oral argument and presentation of their case. In addition, the parties are directed to address whether they would prefer that this Court impose such limits at this time, or at any pretrial conferences, or on the first day of trial, or during trial. See *generally*, Hon. Barry Russell, 2 *Bankr. Evid. Manual* (2018-19 Ed., Nov. 2018) 611:1, Examples 6&7).

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(b) Objection by individual Debtors to Proof of Claim ("POC") No. 3 (dkt. 310)

Overrule the objection to POC No. 3, filed by Wyndham Vacation Resort, Inc ("Wyndham"), for the reasons stated in Wyndham's opposition (dkt. 326), and for the following additional reasons.

First, POC No. 3 has sufficient documentation and other information to establish its *prima facie* validity. Second, any lack of *prima facie* validity is not enough to disallow the claim under 11 U.S.C. 502. See *In re Orozco*, 2017 WL 3126797 (Case No. 2:13-bk-15745-NB, dkt. 132), and *In re Beoglyan* (Case No. 2:13-bk-22883-NB, dkt. 141).

The cases cited by Mr. MacMillan (dkt. 310, pp.2:28-3:1) are distinguishable or actually contrary to his position. See *In re Garner*, 246 B.R. 617 (9th Cir. BAP 2000) (when claim did have *prima facie* validity, opposition did not overcome that *prima facie* validity); and see *In re Stoecker*, 5 F.3d 1022, 1027-28 (7th Cir. 1993) (reversing disallowance of claim based on non-compliance with Rule 3001(f)); *In re Brunson*, 486 B.R. 759, 765-66, and 768-73 (Bankr. ND Tex. 2013) ("This court adheres to the majority view that a proof of claim may not be disallowed where the sole basis of objection is the creditor's failure to attach sufficient documentation under Bankruptcy Rule 3001") (emphasis added).

Indeed, as noted in *Brunson*, the 2011 amendments to "Bankruptcy Rule 3001(c)(2)(D), together with the Advisory Committee Note shedding light on its meaning, should end the debate." *Id.*, p.770 (emphasis added). Now it is clear that "[f]ailure to provide the required information does not itself constitute a ground for disallowance of a claim." *Id.* (quoting advisory committee note; emphasis added).

In view of the foregoing, the tentative ruling is that this objection to POC No. 3 is frivolous.

(c) Objection by individual Debtors to POC No. 18 (dkt. 312)

Overrule the objection to Americana Vacation Club and Stardust Vacation Club's ("Americana/Stardust") POC for the reasons stated in Americana/Stardust's opposition (dkt. 320) and for the same reasons as stated above in connection with POC No. 3. Debtors' Reply (dkt. 341) does not adequately address those reasons.

In view of the foregoing, the tentative ruling is that this objection to POC No. 18 is frivolous.

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(d) Motion by individual Debtors to Dismiss bankruptcy case of Attitude Marketing, Inc. ("Attitude") (the "MTD," dkt. 307)

The tentative ruling is to deny the individual Debtors' MTD for the reasons stated in the Chapter 7 Trustee's opposition (dkt. 325) to the MTD, and for the following additional reasons.

As the Trustee notes, in this circuit a voluntary Chapter 7 debtor is entitled to dismissal of the case so long as such dismissal will cause no "plain legal prejudice" to interested parties, or perhaps just "legal prejudice" (without the "plain" modifier). *In re Leach*, 130 B.R. 855, 857 (9th Cir. BAP 1991) (citing pre-Bankruptcy Code case of *In re International Airport Inn Partnership*, 517 F.2d 510, 512 (9th Cir. 1975), and addressing how its principles should be applied under the Bankruptcy Code). The tentative ruling is that dismissal very much would cause plain legal prejudice to interested parties because dismissal would preclude the Trustee and creditors from using the bankruptcy process and powers (i) to investigate past and present alleged misconduct, (ii) to prevent acts and omissions for which there are grounds to be concerned, and which can drain the value of a potentially valuable asset of this bankruptcy estate, and (iii) to identify and recover any avoidable transfers.

Investigating all of these things is made all the more important by the allegations of a long history of Debtors purportedly evading judgments, settlement obligations, etc. Whether those allegations are accurate or not is an issue on which Debtors will have every legitimate opportunity to present arguments and evidence; but the tentative ruling is that they cannot avoid the determination of those bankruptcy-focused issues by obtaining a dismissal of their bankruptcy case.

Debtor's motion and reply papers (dkt. 339, 340) do not adequately address any of the foregoing, nor do they establish any reason why this Court would not recognize the Trustee's authority to file the bankruptcy petition pursuant to the Written Consent Of Shareholders In Lieu Of Meeting and the Written Consent Of Sole Director In Lieu Of Meeting attached to the Trustee's Opposition as Exhibit A (dkt. 325). The arguments attempting to dispute the Trustee's business judgment in causing Attitude's bankruptcy petition to be filed, or in filling out Attitude's bankruptcy schedules, or in administering Attitude's assets, are unpersuasive and unsupported by any meaningful evidence. The individual Debtors' flat denials of the claims against Attitude,

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without persuasive or even colorable arguments or evidence, are insufficient.

The tentative ruling is that the individual Debtors' arguments are frivolous. In any event, the paucity of those arguments only reinforces the need for the Trustee to take over management of Attitude.

Proposed orders: The Trustee and the Claimants are directed to lodge proposed orders on each of the foregoing matters "(1)(b)," "(c)," and "(d)" via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B). This Court will prepare an order on matter "(1)(a)."

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By

James A Dumas Jr

Christian T Kim

Peter J Mastan (TR)

Pro Se

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Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#13.00 Cont'd Status Conference re: Complaint Objecting to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18, 4/9/19; 04/30/19, 05/21/19, 06/04/19, 7/2/19; 08/06/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 18, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 18, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 9, 6/4/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 14, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the adversary proceeding this proceeding is being jointly administered with (calendar no. 5, 4/30/19 at 11:00 a.m.).

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Tentative Ruling for 4/9/19:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Tentative Ruling for 1/30/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address (a) why they failed to file the required status report, (b) why the motions for joint administration/consolidation of the two closely related adversary proceedings have not been prosecuted, and (c) the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not formalize the fact that the pending mediation includes this adversary proceeding by issuing an order to mediate this matter together with related adversary proceeding (2:17-ap-01229-NB)? The tentative ruling is to direct counsel for the defendants to lodge a proposed order to that effect.

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Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#14.00 Cont'd hrg re: Plaintiff's Motion for Summary Judgment
and for Entry of a Separate Judgment
fr. 06/04/19, 7/2/19; 08/06/19

Docket 53

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see tentative ruling for the adversary status conference (calendar no. 19, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling for adversary status conference (calendar no. 7, 6/4/19 at 2:00 p.m.).

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

**United States Bankruptcy Court
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David MacMillan

Chapter 7

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Movant(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#15.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 04/09/19, 04/30/19, 5/7/19, 06/04/19, 7/2/19; 08/06/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/20/19:

At the 6/4/19 hearing this Court took the Motion for Summary Judgment (adv. dkt. 53) under submission and anticipates issuing an order on that motion at a later time, and addressing the other matters in these related proceedings at a continued hearing on 9/24/19 at 2:00 p.m.

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 5/7/19:

Continue as set forth below. Appearances are not required on 5/7/19.

(1) Current issues. This Court is not aware of any issues that would warrant a status conference at this time.

(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dct. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

(3) Deadlines: This adversary proceeding has been pending since 11/21/17.
Discovery cutoff (for *completion* of discovery): 3/25/19 (adv. dkt. 48)
Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)
Expert(s) - discovery cutoff (if different from above):
Dispositive motions to be heard no later than: 2/11/19 [previously set,

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Chapter 7

but parties appear to assume that deadline will be excused (see dkt. 53)]

Joint Status Report: 5/7/19

Continued status conference: 6/4/19 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD
(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances required.

From the prior status report (adv. dkt. 50) it appears that the previously ordered deadlines (adv. dkt. 48) may need to be revised. The parties are directed to address that issue.

(1) Motion for summary judgment ("MSJ," adv.dkt. 43). Contrary to the posted Procedures of Judge Bason, Plaintiff self-calendared the MSJ. In addition, the MSJ is set for 10:00 a.m. (on 6/4/19), which is this Court's relief from stay calendar. The tentative ruling is to reschedule the hearing to 2:00 p.m. on 6/4/19.

(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dct. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

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David MacMillan

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(3) Deadlines: This adversary proceeding has been pending since 11/21/17.

Discovery cutoff (for *completion* of discovery): 3/25/19 (adv. dkt. 48)

Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)

Expert(s) - discovery cutoff (if different from above):

Dispositive motions to be heard no later than: 2/11/19 [needs revision]

Joint Status Report: 5/7/19

Continued status conference: 6/4/19 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Address procedural issues and then continue this status conference as set forth below. Appearances required.

Current issues

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.).

(b) Continued hearing

The tentative ruling is to continue this status conference to 4/30/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you

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David MacMillan

Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required.

The tentative ruling is to continue this status conference to 5/7/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

The tentative ruling is (1) to continue this status conference to 3/26/19 at 11:00 a.m., with no written status report required prior to that continued date, and (2) to extend the discovery cut off to 3/15/19 per the parties' Joint Status Report (adv. dkt. 45). Plaintiff is directed to lodge a proposed scheduling order containing this new deadline, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form. Appearances are not required on 2/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

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Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's scheduling order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. docket number(s) 23).

(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

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Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

Reasons: At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

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Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and

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David MacMillan

Chapter 7

that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By

Robert S Altagen

Cynthia B. Martin

Represented By

Robert S Altagen

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Los Angeles
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CONT... David MacMillan Chapter 7

Aston Business Solutions, Inc.	Represented By William H Brownstein
Eric A. Martin	Represented By William H Brownstein
Glenn J. Chaffin	Represented By William H Brownstein
Andrae Perez	Pro Se
Accelerated Capital Group, Inc.	Pro Se
Does I through XX	Pro Se

Plaintiff(s):

Rosendo Gonzalez	Represented By James A Dumas Jr Christian T Kim
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Trustee(s):

Rosendo Gonzalez (TR)	Represented By James A Dumas Jr Christian T Kim
Peter J Mastan (TR)	Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#16.00 Cont'd hrg re: Plaintiff's Motion for Summary Judgment
fr. 06/04/19, 7/2/19; 08/06/19

Docket 98

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the status conference (calendar no. 21, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference (calendar no. 9, 6/4/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Movant(s):

Wyndham Vacation Resorts, Inc.

Represented By

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Los Angeles
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Tuesday, August 20, 2019

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CONT... David MacMillan

Chapter 7

Michael B Lubic
Daniel M Eliades

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#17.00 Cont'd hrg re: Declaration of Daniel M. Eliades in Further Support of Wyndham Vacation Resort Inc.'s Motion to Compel fr. 7/30/19; 08/06/19

Docket 128

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/30/19:

Continue to 8/6/19 at 2:00 p.m., to be heard concurrently with the other David MacMillan bankruptcy (2:16-bk-21559-NB) related matters. Appearances are not required on 7/30/19.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Movant(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

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Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#18.00 Cont'd Status Conference re: Complaint to Determine Non-Dischargeability of Debt fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19; 08/06/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

At the 6/4/19 hearing this Court took the Motion for Summary Judgment (adv. dkt. 98) under submission and anticipates issuing an order at a later time.

Tentative Ruling for 6/4/19:

[No tentative ruling was posted]

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19. The tentative ruling is to continue the hearings in these related adversary proceedings (calendar no. 13 & 14, 5/21/19) to the date of the continued status conference (see below).

(1) Current issues

The tentative ruling on the Motion to Compel (dkt. 104) and the Order to Show Cause ("OSC," dkt. 107) is to continue these matters as requested in the response of Aston Business Solutions, Inc. (dkt. 110, 111). This Court contemplates that the deadlines for completion of discovery and other matters

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will need to be extended, and the parties are directed to meet and confer and, if they can agree to new deadlines, lodge a proposed order. If they cannot agree, this Court anticipates setting new deadlines at the continued status conference.

(2) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(3) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 6/11/19 at 2:00 p.m. No written status report required.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

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Continue as set forth below. Appearances are not required on 4/30/19.

This Court has reviewed the latest filed documents in this adversary proceeding and is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for completion of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Supplemental Tentative Ruling for 4/9/19:

The original tentative ruling (below) provides two inconsistent dates for a continued status conference: 4/30/19 at 11:00 a.m., 4/7/19 at 11:00 a.m. The latter [should be "former"] is correct. No status report required.

Tentative Ruling for 4/9/19:

Deny the motion to quash (with the possible exception of one aspect), address procedural issues, and then continue this Status Conference, all as set forth below. Appearances required.

Current issues:

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(b) Motion to Quash (adv. dkt. 84)

The tentative ruling is that the motion to quash (adv. dkt. 84) by Aston Business Solutions, Inc. ("ABS") is unpersuasive, except perhaps for limitations as to time, which the parties are directed to address at the hearing.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(A) Analysis re motion to quash

ABS asserts only vague objections:

(1) Competitors?

ABS asserts that it and Plaintiff are competitors. How so?

The motion does not even disclose ABS' business. Is it a timeshare owner? Is it a timeshare operator? Is it something else? (As noted below, this Court expects that it has gleaned the answer from other documents, but the tentative ruling is that this lack of even such basic information in the motion is fatal to this argument.)

(2) Protected information?

ABS alleges that some sort of trade secrets or other confidential, privileged, or other type of protected information is involved. What sort of information? Why would a traditional privilege log and other tools be inadequate?

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ABS complains that parties in interest in this bankruptcy case have shared information. But ABS fails to point to any prohibition on sharing information.

(3) Burden?

ABS alleges that the requested discovery is unduly burdensome. How so? Is it stored in thousands of boxes of paper files that are difficult to reach and review for some reason?

(4) Vagueness and overbreadth?

ABS alleges that the discovery requests are vague and overbroad. How so? ABS fails to provide any explanation or evidence to support this allegations.

(5) Discussion

Based on a question (not an answer) in excerpts from the deposition of ABS' President and shareholder, Glenn Chaffin, ABS may be a marketing company for "timeshare exit companies." Adv. dkt. 84, Ex.1 (Depo. Tr. 1/24/19), p.95:22-23. But how does that make ABS a "competitor" of Plaintiff, with information that would constitute trade secrets, as opposed to a facilitator of (possibly) legitimate ways to exit timeshares, who sends out non-secret flyers and other publicly known marketing materials, and assists timeshare members in navigating contracts that are known to all the parties?

Such a facilitator theoretically could benefit Plaintiff, by replacing non-paying or troubled members with paying ones - unless, of course, ABS engages in acts that improperly interfere with contractual relations or otherwise assists in the wrongdoing of which Plaintiff accuses Defendants. Plaintiff's discovery appears to be targeted at discovering information that could lead to admissible evidence on this and other relevant issues. Accordingly, the discovery appears to be entirely proper and appropriate, with the possible exception of the movant's request to impose some limitations as to time, which the parties are directed to address at the hearing.

(B) Adversary proceeding status conference issues

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

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Discovery cutoff (for completion of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Continued status conference: 4/30/19 at 11:00 a.m., no status report required.

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

This Court has reviewed the latest filed documents in this adversary proceeding, including the parties' status reports (dkt. 89, 91). This Court is not aware of issues that would warrant a status conference at this time.

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(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the

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other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).

Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).

Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).

Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).

Dispositive motions to be heard no later than: TBD

Joint Status Report: 3/12/19.

Continued status conference: 3/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#19.00 Hrg re: Motion to sell property of the estate free and clear of liens under Section 363(f) and for entry of an order: (1) Authorizing the sale of real property located at 212 E. Pomona Avenue, Monrovia, CA, free and clear of Liens and interests; (2) Approving overbidding procedure; (3) Authorizing payment of real estate brokers commission and ordinary costs of sale; and (4) Finding purchaser is a good faith purchaser;

Docket 317

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 8/20/19 at 2:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Movant(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Craig G Margulies
Craig G Margulies
Montserrat Morales
Montserrat Morales
Montserrat Morales

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Chapter 11

#20.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19

Docket 1

Tentative Ruling:

Tentative Ruling for 8/20/19:

Appearances required.

(1) Current issues

(a) Motion to Sell 212 E Pomona Ave, Monrovia, CA free and clear (dkt. 317)

Grant the motion, subject to (i) any overbids at the hearing, and (ii) if there are overbidders, subject to the filing of a "good faith" declaration (11 U.S.C. 363(m)) by the winning bidder that substantially complies with Judge Bason's posted procedures (available at cacb.uscourts.gov), and (iii) the terms set forth in Cathay Bank's response (dkt. 325).

The tentative ruling is that the good faith declaration of one of the proposed purchasers, Paula T. Li (dkt. 321), is sufficient if they are the winning bidder and as to her co-purchaser, Eric C. Hung (despite his failure to sign the declaration and that any representations made on his behalf are hearsay).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Debtor's motion for TRO and/or alleged automatic stay violation in removed action (the "TRO Motion," 2:19-ap-01149-NB, dkt. 10), Cathay Bank's opposition (adv. dkt. 18), Debtor's reply (adv. dkt. 19), and McNeal defendants' joinder (adv. dkt. 21)

Grant in part and deny in part, as set forth in the tentative ruling for calendar no. 4 (8/6/19 at 2:00 p.m.).

(b) TCF Equip. Finance, Inc.'s emergency motion (dkt. 310) to modify order (dkt. 291) re sale of personal property

This Court has provisionally authorized TCF to present this matter on 8/6/19 at 2:00 p.m., based on a telephonic request pursuant to LBR 9075-1(a). The first issues this Court will address are (i) whether TCF has served whatever parties are appropriate, in sufficient time, and (ii) whether shortening time is appropriate. If so, this Court will address the merits of whatever TCF is requesting.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 7/30/19:
Appearances required.**

(1) Current Issues

(a) Debtor's Motion to Sell Gale Property Free and Clear (dkt. 294)

Grant the motion, subject to (i) the requirements in Cathay Bank's response (dkt. 304) (proceeds are subject to its lien under cash collateral order, to be held in segregated DIP account pending further order of this Court); (ii) any opposition and any overbids at the hearing (see OST, dkt. 297), and (iii) if there are overbidders, subject to the filing of a "good faith" declaration (11 U.S.C. 363(m)) by the winning bidder that substantially complies with Judge Bason's posted procedures (available at cacb.uscourts.gov). See *id.* The tentative ruling is that the good faith declaration of one of the proposed purchasers (dkt. 305) is sufficient if they are the winning bidder.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 8/20/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... **Schaefer Ambulance Service, Inc**

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/18/19:

Continue this status conference as set forth below. Appearances are not required on 6/18/19.

(1) Current issues

(a) Debtor's motion to extend exclusivity period and extend period to assume/reject leases (the "Extension Motion," dkt. 239)

Grant - *i.e.*, (i) extend Debtor's exclusive right to file a plan of reorganization and gain acceptance of a plan of reorganization to and including 9/1/19 and 12/1/19, respectively, and (ii) extend the period in which Debtor may assume or reject unexpired leases of non-residential real property to and including 9/1/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/30/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances required.

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CONT... Schaefer Ambulance Service, Inc

Chapter 11

(1) Current issues

(a) Application to employ real estate broker (dkt. 164)

Subject to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property (see Cathay Bank Obj., dkt. 243, at pp.6:25-7:6), the tentative ruling is to grant the application to employ real estate broker. The tentative ruling is to overrule Cathay Bank's other objections.

(i) Alleged lack of disinterestedness

Although Cathay Bank's supplemental opposition (dkt. 243) argues that the proposed broker, Standard Mortgage, Inc. dba Standard Realty ("Broker") is not "disinterested," and therefore is not eligible for employment under 11 U.S.C. 327(a), the tentative ruling is that this objection is not persuasive. True, an independent contractor with Broker, Mr. Akbari (who previously stated that he was an "employee" of Broker), is married to the sister of the wife of one of Debtor's officers/control persons. Cathay Bank cites authority that, under California law, being a brother-in-law is equivalent to being a brother, so the tentative ruling is that Mr. Akbari is a "relative" of an "officer" or "person in control" of Debtor and therefore he is an "insider." See 11 U.S.C. 101(45) (a "relative" means an "individual related by affinity or consanguinity within the third degree as determined by the common law"); 101(31)(B)(vi) (insider includes a "relative of a ... officer, or person in control of the debtor"). But that does not mean that Broker is an insider.

It also appears to be true that Debtor has not been as forthcoming with the connections between Broker and Debtor as would have been advisable, including both the familial relationships noted above and the recent discovery that Mr. Akbari "was the listing agent on the Cabrillo Street Property (during the *nunc pro tunc* timeframe in which the Broker is sought to be employed)" Cathay Bank Obj. dkt. 243, p.3:4-6 & Warrington Decl., Ex.1. Finally, as noted in the tentative ruling for 5/21/19, part (1)(b) (reproduced below), the statutory list of insiders "includes" but is not limited to the listed examples (see 11 U.S.C. 102(3)) and in addition this Court notes that a professional must be not only "disinterested" but also must not "hold or represent an interest adverse to the estate." 11 U.S.C. 327(a).

But the tentative ruling is that the facts recited above do not disqualify Broker from employment. A different real estate agent will be handling this matter (Mr. Ahmadi, dkt. 234); there is no evidence that Mr. Ahmadi or Broker

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itself has any incentive to act in any way adverse to the bankruptcy estate; and the failures to provide disclosure of every arguable "connection" between Broker and Debtor (within the meaning of Rule 2014, Fed. R. Bankr. P.) is unfortunate but understandable given the attenuated nature of the connections (Debtor's officer's wife's sister's husband originally was the listing agent for Broker on one of the four properties to be sold).

(ii) Alleged issues with 4.5% commission

Cathay Bank argues that Debtor has failed to justify a 4.5% commission; but to the contrary, the tentative ruling is that in general this Court should give deference to Debtor's business judgment, and that even without such deference Debtor has provided sufficient evidence that a 4.5% commission is appropriate (see dkt. 234) (Declaration regarding typical commission for commercial properties being 4-6%, and for residential properties 5-6%). Cathay Bank has provided no evidence to the contrary. Nor has Cathay Bank cited authority that Debtors are required to "shop around" for the lowest commission (which might not be the best broker) prior to selecting a broker, especially given that the proposed Broker has agreed to a slightly reduced commission from what is typical (see *id.* at 3).

(iii) Alleged lack of qualifications re industrial property

The tentative ruling is that although there may be conceptual differences between "industrial" and "commercial" properties, Cathay Bank has not established that any such difference is meaningful in the context of this case and the properties at issue.

(iv) Conclusion as to Broker

The tentative ruling is to grant the application and authorize Broker's employment subject, again, to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property. See Cathay Bank Obj., dkt. 243, at pp.6:25-7:6.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

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(c) Continued status conference: 6/18/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Debtor's counsel's fee application (dkt. 175, 177)

Allow \$145,683.50 in fees and \$5,714.10 in expenses for a total of \$151,397.50, and authorize draw down of the retainer (\$124,846.70 remaining), with the balance of the fees and expenses to paid from the estate.

Cathay Bank's response (dkt. 207) does not object to allowance of the fees but seeks to reserve all rights it might have regarding a purported lien on some of the retainer. Debtor's reply (dkt. 215) asserts that the bank has no such rights to reserve because it has been given a replacement lien on the real estate.

This Court's recollection is that the bank did not entirely waive such rights at the hearing on 5/7/19, but did indicate that it was no more going to seek disgorgement from Debtor's firm (of authorized postpetition distributions from the retainer account) than it would seek disgorgement from one of Debtor's utilities (of authorized postpetition utility payments). In any event, whatever the parties' interpretations of the representations on 5/7/19, the issue is too remote for either party to be expending any substantial attorney fees on it at this time.

Cathay Bank has its security interest in the accounts receivable that existed as of the petition date, and it has replacement liens in ongoing

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accounts receivable. Debtor believes the bank will be paid in full out of those things. But as adequate protection (11 U.S.C. 361, 363(e) & 552(b)) the bank has replacement liens in Debtor's real estate - to cover both (i) any diminution in the value of its security interest in the accounts receivable as of the petition date and (ii) any diminution in the value of its purported security interest in the retainer as of the petition date. Therefore the bank's and Debtor's rights are both reserved, and neither party should be spending much time on this issue. Any attorney fees spent arguing about this issue are subject to this Court's review for reasonableness (under 11 U.S.C. 330 and 331 for Debtor's counsel, and under 11 U.S.C. 506(b) for Cathay Bank's counsel).

(b) Application to employ real estate broker (dkt. 164)

The tentative ruling is, with one exception, to overrule the objection of Cathay Bank (dkt. 199), based on Debtor's reply (dkt. 214). The exception is that, although Debtor has presented evidence of the reasonableness of the broker's proposed commission and experience, and this Court generally should defer to Debtor's business judgment, Cathay Bank makes a good point that the real estate at issue ranges broadly from a single family residence to commercial property etc., and there is insufficient evidence of the proposed broker's specific experience as to each type of real estate. The tentative ruling is to set a **deadline of 5/24/19** for Debtor to file and serve a supplemental declaration detailing such experience, with a **deadline of 5/29/19** for any supplemental objection by Cathay Bank, and a continued hearing (if there is any such objection) concurrent with the continued status conference (see below).

As for disinterestedness (11 U.S.C. 101(14), 327(a)), Cathay Bank argues that the broker is not disinterested because, from the information on the docket, it appears that one of its alleged employees (Mr. Akbari) is a relative by marriage of one of Debtor's principals, and the principals are beneficiaries of a trust that engaged in prepetition transactions with Debtor that, according to the bank, violated Debtor's covenants with the bank. On the one hand, it is true that Mr. Akbari previously declared that he was "employed" by the broker (dkt. 77, p.1:22).

On the other hand, this Court interprets that as an (unfortunately) imprecise description of his arrangement as an independent contractor. Alternatively, even if he is an employee, this Court is not persuaded that this disqualifies the broker from employment by the estate.

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Mr. Akbari apparently is married to the sister of the wife of one of Debtor's officers/control persons. The tentative ruling is that this makes him related "by affinity or consanguinity" within the fourth degree (1.officer - 2.spouse - 3.sister of spouse - 4.Mr. Akbari), so he is not a "relative" within the meaning of 11 U.S.C. 101(45) and therefore he is not an "insider" within the meaning of 11 U.S.C. 101(31)(B)(vi) or (E). That is not dispositive, because, the statutory list of insiders "includes" but is not limited to the listed examples. See 11 U.S.C. 102(3). But the tentative ruling is that the connection has been sufficiently disclosed (Rule 2014, Fed. R. Bankr. P.) and is not disqualifying.

In practical terms, this Court does not perceive that any alleged ties between the proposed real estate broker and Debtor's principal creates any incentive to lessen the price obtained for the real estate, or otherwise prejudice the interests of the bankruptcy estate. Accordingly, the tentative ruling is to approve the employment, subject to satisfactory supplemental evidence as set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: The tentative ruling is to vacate any deadline to file a proposed plan and disclosure statement, given the current posture of this case.

(c) Continued status conference: 6/4/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 5/7/19:

Appearances required.

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(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week without further authorization of this Court. (To be clear: if Debtor in its business judgment believes that it must incur more than that amount of professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

(c) Cathay Bank's adequate protection: replacement liens v. cash payments

The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

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- (2) Deadlines/dates. This case was filed on 2/20/19.
- (a) Bar date: 6/17/19 (timely served, dkt. 129).
 - (b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or

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the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

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Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate declaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to

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Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's

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replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status

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conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ. P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

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Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.*, were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, August 20, 2019

Hearing Room 1545

2:00 PM

CONT... Schaefer Ambulance Service, Inc Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 3, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#1.00 Hrg re: Debtor's omnibus Motion to stay bankruptcy proceeding and all related adversary proceedings

Docket 224

*** VACATED *** REASON: Reschedule to September 10, 2019 at 2:00 p.m.

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Movant(s):

Philip James Layfield

Represented By
Anthony M Solis
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 3, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#2.00 Hrg re: Motion for relief from stay [NA]

Docket 222

*** VACATED *** REASON: Reschedule to September 10, 2019 at 2:00 p.m.

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Movant(s):

Philip James Layfield

Represented By
Anthony M Solis
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 3, 2019

Hearing Room 1545

11:00 AM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01197 Koi Design LLC v. Mastroianni et al

#3.00 Status conference re: Complaint (1) Intentional Breach of Fiduciary Duty; (2) Fraudulent Concealment; (3) Breach of Fiduciary Duty; (4) Legal Malpractice; (5) Negligent Supervision; (6) Constructive Fraud; (7) Avoidance and Recovery of Fraudulent Transfers; and (8) Turnover of Property of the Estate

Docket 1

***** VACATED *** REASON: Rescheduled to 9/10/19 at 11:00 a.m.**

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

A. Douglas Mastroianni

Pro Se

Marron Lawyers, APC

Represented By
John W Kim

The Bloom Firm, APC

Represented By
Vernon L Ellicott
Heather L Rosing
John T Rosenthal

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 3, 2019

Hearing Room 1545

11:00 AM

2:19-11828 Bret Russell Witke

Chapter 7

Adv#: 2:19-01192 Mesnick v. Witke et al

#4.00 Status conference re: Complaint for the non-dischargeability of debt pursuant to 11 U.S.C. sections 523(a)(2)(A), (a)(4) and (a)(6)

Docket 1

*** VACATED *** REASON: Rescheduled to 9/10/19 at 11:00 a.m.

Party Information

Debtor(s):

Bret Russell Witke

Represented By
Michael H Raichelson

Defendant(s):

Bret Russell Witke

Represented By
Michael H Raichelson

Bret Russell Witke Design Inc.

Represented By
Michael H Raichelson

Plaintiff(s):

Michael Mesnick

Represented By
Craig G Margulies
Noreen A Madoyan

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 3, 2019

Hearing Room 1545

11:00 AM

2:19-12964 John Martin Kennedy

Chapter 13

Adv#: 2:19-01189 Campos v. Kennedy

#5.00 Status conference re: Complaint to determine
nondischargeability of debt pursuant to 11 U.S.C.
section 1328(a)(4)

Docket 1

***** VACATED *** REASON: Rescheduled to 9/10/19 at 11:00 a.m.**

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Defendant(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Plaintiff(s):

Yunuen Campos

Represented By
Lauren A Dean

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 3, 2019

Hearing Room 1545

1:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#6.00 Hrg re: Motion to Compel Chapter 11 Trustee to File Income Tax Returns, Payroll Tax Returns, Issue W-2S, Pay Required Taxes Due, File Appropriate Carryback Returns and Discharge Duties Regarding Employee Benefit Plans

Docket 443

***** VACATED *** REASON: Reschedule to September 10, 2019 at 2:00 p.m.**

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:17-13217 David Humberto Flores and Bertha Amalia Aldrete

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

PENNYMAC LOAN SERVICES, LLC
vs
DEBTOR

Docket 29

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

David Humberto Flores

Represented By
Raymond Perez

Joint Debtor(s):

Bertha Amalia Aldrete

Represented By
Raymond Perez

Movant(s):

PennyMac Loan Services, LLC, and

Represented By
Nathan F Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:17-13663 Clifford L Meeks and Beverly A Meeks

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 40

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Clifford L Meeks

Represented By
David S Hagen

Joint Debtor(s):

Beverly A Meeks

Represented By
David S Hagen

Movant(s):

Deutsche Bank National Trust

Represented By
Caren J Castle

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Clifford L Meeks and Beverly A Meeks

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:18-17643 Judith Gonzalez

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

WANG YANG ENTERPRISES LLC
vs
DEBTOR

Docket 34

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Judith Gonzalez

Represented By
David Lozano

Movant(s):

Wang Yang Enterprises LLC

Represented By
Henry D Paloci

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:18-17656 Jose De Jesus Perez

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

NEWREZ LLC DBA SHELLPOINT MORTGAGE SERVICING
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Jose De Jesus Perez Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose De Jesus Perez

Represented By
Edwing F Keller

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:18-17694 Michael Valdez and Veronica Valdez

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

ASPEN G. REVOCABLE TRUST
vs
DEBTOR

Docket 64

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Michael Valdez and Veronica Valdez

Chapter 13

Party Information

Debtor(s):

Michael Valdez

Represented By
Stephen H Darrow

Joint Debtor(s):

Veronica Valdez

Represented By
Stephen H Darrow

Movant(s):

Aspen G Revocable Trust

Represented By
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:18-22903 Jaime Rojas Lozano and Yolanda Barron Lozano

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

US BANK NATIONAL ASSOC
vs
DEBTOR

Docket 32

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jaime Rojas Lozano

Represented By
Erika Luna

Joint Debtor(s):

Yolanda Barron Lozano

Represented By
Erika Luna

Movant(s):

US Bank National Association

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-11932 Brad Leon Luff

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 35

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Brad Leon Luff

Chapter 13

Party Information

Debtor(s):

Brad Leon Luff

Represented By
Kevin T Simon

Movant(s):

Wells Fargo Bank, NA

Represented By
Merdaud Jafarnia
Gilbert R Yabes

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-16122 Jason D Wilder

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

CALIBER HOME LOANS, INC.
vs
DEBTOR

Docket 15

*** VACATED *** REASON: Voluntary dismissal of motion filed 09/03/19
- Dkt. #21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason D Wilder

Represented By
Axel H Richter

Movant(s):

Caliber Home Loans, Inc.

Represented By
Nathan F Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-10588 Zachary Joseph Gross and Jennifer Lynn Gross

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]

VT INC
vs
DEBTOR

Docket 40

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Zachary Joseph Gross and Jennifer Lynn Gross

Chapter 13

Party Information

Debtor(s):

Zachary Joseph Gross

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Jennifer Lynn Gross

Represented By
Ramiro Flores Munoz

Movant(s):

VT INC. AS TSTEE WORLD

Represented By
Scott S Weltman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-16680 Alexander Karimi

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]

JPMORGAN CHASE BANK, NA
vs
DEBTOR

Docket 23

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Alexander Karimi

Chapter 13

Party Information

Debtor(s):

Alexander Karimi

Represented By
Julie J Villalobos

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-17830 Myesha Nicole Sherrer

Chapter 13

#11.00 Hrg re: Motion for relief from stay [PP]

A-L FINANCIAL CORP
vs
DEBTOR

Docket 19

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Myesha Nicole Sherrer

Represented By
Andrew Moher

Movant(s):

A-L Financial Corp.

Represented By
Lincoln D Gardner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-18007 **Juan Martin Licerio and Kathy Deanna Rodriguez**

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 15

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Juan Martin Licerio and Kathy Deanna Rodriguez

Chapter 13

Party Information

Debtor(s):

Juan Martin Licerio

Represented By
Julie J Villalobos

Joint Debtor(s):

Kathy Deanna Rodriguez

Represented By
Julie J Villalobos

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#13.00 Hrg re: Motion for relief from stay [NA]

JESUS QUINTERO
vs
DEBTOR

Docket 48

Tentative Ruling:

Grant in part, deny in part, as provided below. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 60), and Movant's reply (dkt. 62).

(1) Debtor's untimely Opposition

In its reply, Movant asks this Court to disregard Debtor's Opposition because it was filed two days late. Dkt. 62, at p.2:5-12. Movant does not explain, however, what prejudice it suffered from the two day delay.

In addition, Movant may be partially responsible for Debtor's delay because the Motion was not served on Debtor itself, as well as Debtor's counsel ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). This Court recognizes that the double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

In addition, Movant served the Motion via United States mail on several parties in interest on 8/20/19, 21 days before the hearing. But Rule

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... **Unified Protective Services, Inc.**

Chapter 11

9006(f) (Fed. R. Bankr. P.) adds an additional three days for service via U.S. mail, so it should have been mailed 24 days prior to the hearing. Therefore, if Movant argues for a strict application of the usual deadlines, this hearing should be continued anyway.

For each of these reasons, the tentative ruling is to overrule Movant's objection to consideration of the Opposition papers.

(2) Merits

The tentative ruling is (a) to grant Movant's request for an order confirming that the automatic stay does not protect the non-debtor defendants, and alternatively granting relief from the automatic stay for Movant to pursue its action(s) against such defendants, and (b) to modify the automatic stay to permit discovery to proceed in the non-bankruptcy action, and continue the hearing with respect to any remaining relief.

Legal standards

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the

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CONT... **Unified Protective Services, Inc.**

Chapter 11

judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

(a) Non-Debtor defendants

In general, the automatic stay does not protect non-debtors, and any request to stay acts against non-debtors would require a separate adversary proceeding. See generally, *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007). That said, it can be difficult to determine whether the automatic stay applies when dealing with entities that may have intertwined finances with a debtor in bankruptcy, or when suing a related entity could be interpreted as an attempt to collect a claim against a debtor. See, e.g., 11 U.S.C. 362(a)(3) (staying any act to obtain possession of, or exercise control over, property of estate) and (a)(6) (staying any act to collect a prepetition claim against a debtor).

In this case neither Debtor nor any other party in interest has asserted that the automatic stay prevents Movant from suing the non-debtors. In addition, the record before this Court does not reflect facts and circumstances showing that the automatic stay would apply to suing the non-debtors. Accordingly the tentative ruling is that the automatic stay does not apply.

Alternatively, the tentative ruling is that if the stay were to apply for some reason, relief from the automatic stay would be appropriate to permit Movant to pursue its action(s) against the non-debtors. Of particular note, under the authorities cited above, any such acts involve third parties, and there has been no showing of interference with or prejudice to Debtor, other creditors, or the bankruptcy estate by permitting such acts. For example, the third parties themselves may have the expense of litigation, but there is no evidence that any such expense will constitute an administrative claim against the bankruptcy estate.

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CONT... Unified Protective Services, Inc.

Chapter 11

(b) Modify the stay to permit discovery, and continue hearing for other issues

Based on the present record, the tentative ruling is that the *Curtis* factors weigh in favor of granting relief to pursue discovery, but continuing the hearing as to any other relief. Most significantly:

As to the first *Curtis* factor (would relief result in partial or complete resolution of issues?), granting relief would result in a complete resolution of the issues, whereas denying relief would not, because the majority of the defendants in the state court action are not subject to this Court's jurisdiction, and the suit involves primarily issues of state labor law. Dkt. 48, Ex. 1.

As to the second *Curtis* factor (connection with or interference with the bankruptcy case) and the seventh *Curtis* factor (prejudice to other creditors/interested parties), Debtor has pointed primarily to the expense of litigation, and also to the need for a "breathing spell." Both Debtor and other parties in interest, including Movant, may be better able to assess the costs and benefits of litigation and/or settlement once Debtor presents a chapter 11 plan, or the outline of one: for example, litigating over a 1% dividend is very different from litigating over a 50% or 90% dividend. More generally, this Court takes judicial notice that this bankruptcy case was commenced by the filing of the bankruptcy petition on 6/1/19, so Debtor has had some time but not a very large amount of time to formulate its strategy for paying its creditors and proposing a chapter 11 plan, so for a limited additional time some breathing spell appears to be appropriate.

As to the tenth and eleventh *Curtis* factors (judicial economy, expeditious and economical determination of litigation, and whether the non-bankruptcy proceedings have progressed to trial-readiness), it is true that the non-bankruptcy action has not progressed to the point where the parties are prepared for trial, but Movant has established that that action has been pending since 9/16 and significant discovery and discovery-related motion practice has already occurred. Dkt. 48 at p.3, dkt. 62 at p.3. The State Court has familiarity with the action, and appears to be better situated to evaluate issues of California state labor law.

As for the twelfth *Curtis* factor (impact of the stay on the parties and the "balance of hurt"), Movant has argued that it would be prejudiced in opposing another defendant's motion for summary judgment without discovery from Debtor, and although Movant has not explained precisely how

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CONT... **Unified Protective Services, Inc.**

Chapter 11

that is so, it is true that in general discovery from all parties in interest is helpful in opposing any motion for summary judgment. For those reasons it appears that discovery is appropriate, but for the moment the "balance of hurt" favors continuation of the automatic stay as to other acts against Debtor.

The tentative ruling is to issue an order granting limited relief as set forth above, and continue the hearing as to any other relief. The tentative continuance is to 11/5/19 at 10:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

Movant(s):

Jesus Quintero

Represented By
Jennifer L Rusnak

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10:00 AM

2:19-19554 Alec Anthony Bauer and Angelica Bauer

Chapter 13

#14.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... **Alec Anthony Bauer and Angelica Bauer** **Chapter 13**
are required, and you fail to appear without adequately resolving this matter
by consent, then you may waive your right to be heard on matters that are
appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alec Anthony Bauer

Represented By
Phillip Myer

Joint Debtor(s):

Angelica Bauer

Represented By
Phillip Myer

Movant(s):

Alec Anthony Bauer

Represented By
Phillip Myer

Angelica Bauer

Represented By
Phillip Myer

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:17-11163 Linet Morin

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/9/19, 7/30/19

CITIBANK, NA.
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 9/10/19 (same as for 7/30/19 and 7/9/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's late-filed response, dkt.36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Linet Morin

Represented By
Kerry P O'Brien

Movant(s):

Citibank, N.A., as Trustee, in trust

Represented By
Daniel K Fujimoto
Caren J Castle

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CONT... Linet Morin

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-14365 Robert Samson Fear

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/20/19

U.S. BANK, NA
vs
DEBTOR

Docket 27

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Robert Samson Fear

Represented By
Onyinye N Anyama

Movant(s):

U.S. BANK, NA AS LEGAL TITLE

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-15891 Veronica Verdin

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/04/19, 7/30/19

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 23

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Veronica Verdin

Represented By
Thomas B Ure

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry
Eric P Enciso
Theron S Covey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#18.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 07/30/19; 08/20/19

THE GOLD 401k PROFIT SHARING PLAN
& TRUST, JONATHAN B. BROOKS, TR.
VS
DEBTOR

Docket 112

*** VACATED *** REASON: R/S granted per stipulation (dkt. 123) and
order thereon.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Robert A Brown

Movant(s):

The Gold 401K Profit Sharing Plan

Represented By
Martin W. Phillips

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Asa S Hami

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2:18-21222 Salvador Ernesto Gomez and Ruth Beatriz Gomez

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19

FREDOM MORTGAGE CORPORATION
VS
DEBTOR

Docket 39

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Salvador Ernesto Gomez

Represented By
Raymond Perez

Joint Debtor(s):

Ruth Beatriz Gomez

Represented By
Raymond Perez

Movant(s):

Freedom Mortgage Corporation

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:18-23524 Jason Azizieh and Alma Azizieh

Chapter 13

#20.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19

WELLS FARGO BANK
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 9/10/19 (same as for 7/30/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jason Azizieh

Represented By
Erika Luna

Joint Debtor(s):

Alma Azizieh

Represented By
Erika Luna

Movant(s):

WELLS FARGO BANK N.A., AS

Represented By

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CONT... Jason Azizieh and Alma Azizieh

Chapter 13

Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
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10:00 AM

2:18-24843 Sandra Maribel Mejia

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19

CENLAR FSB
VS
DEBTOR

Docket 42

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Sandra Maribel Mejia

Represented By
Scott Kosner

Movant(s):

Cenlar FSB as servicer for

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-10825 Tracy Allen Poe

Chapter 13

#22.00 **[CASE DISMISSED ON 9/5/19]**

Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19

DAVID POSNER
vs
DEBTOR

Docket 19

Tentative Ruling:

Tentative Ruling for 9/10/19:

Grant the Motion (dkt. 19, 23, 27), as set forth below. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4) so as to permit Movant to proceed with nonbankruptcy remedies - including any probate proceedings, and any judicial or non-judicial foreclosure - notwithstanding the automatic stay in this bankruptcy case or in any future bankruptcy case.

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CONT...

Tracy Allen Poe

Chapter 13

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Relief notwithstanding *future* bankruptcy cases

Although the motion papers are not entirely clear on this issue, it appears that Movant seeks relief under 11 U.S.C. 362(d)(4) and/or other "in rem" relief based on the assertions that Movant holds a claim secured by an interest in the subject real property and that the filing of Debtor's bankruptcy petition was part of a scheme to delay, hinder, or defraud creditors that involved a purported transfer from the decedent borrower to Debtor, and that Movant alleges that Debtor's asserted interest in the property has been rejected multiple times in the probate proceedings. Based on those assertions, the supporting evidence, and the lack of opposing arguments and evidence, the tentative ruling is to grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved

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CONT... Tracy Allen Poe

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and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:
Appearances required.

This Court has reviewed the Motion (dkt. 19), notice (dkt.23), and the other filed documents in this case, and it appears that the parties need to address the following issues.

(1) Who owns the subject property?

From this Court's review of the documents, it is unclear whether Mr. Walter Edgar Poe has passed (there is no evidence of that), whether his estate was properly probated, whether the Water Edgar Poe Living Trust dated 10/23/13 (the "2013 Trust") is the operative trust document, or whether some other document such as the Walter E. Poe Revocable Living Trust dated 2/26/08 (the "2008 Trust") is operative. The 2013 Trust appears to grant an interest in the property to Ms. Kathie Denise Wargo and grants Debtor and his brother, Thomas Allen Poe, \$5.00. Dkt. 19 at PDF pp. 29-30. In addition, the Motion includes a copy of a revocation of the 2008 Trust. Dkt. 19 at PDF p.32. But Debtor's Bankruptcy Schedule A/B states that the property went through probate and was transferred into Debtor's name in August 2018. Dkt. 1 at 12. The parties' representations appear to be inconsistent. Should the parties' disputes regarding ownership of the subject

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CONT... Tracy Allen Poe

Chapter 13

property be resolved in Probate Court, another State Court, or this Bankruptcy Court?

(2) Service

Movant has not served Kathie Denise Wargo, who appears to be a beneficiary of the 2013 Trust and the trustee, who entered into the Deed of Trust on which the Motion appears to be based (dkt. 19 at PDF p. 15). The tentative ruling is that Ms. Wargo, and any other potential beneficiaries, need to be served.

(3) What relief does the Motion seek?

Is the Movant seeking relief from the automatic stay to return to Probate Court, or some other State Court, to determine who owns the property? Or is the Movant seeking relief from the automatic stay for other remedies against the property, or against Debtor individually, including assertion of any secured or unsecured claim? This Bankruptcy Court is inclined to modify the automatic stay to permit litigation to determine the parties' respective rights in the property, but not to grant any relief that would prejudice the bankruptcy estate or that would evade the priorities for various types of claims established by the Bankruptcy Code.

(4) Conclusion

The tentative ruling is to continue the hearing to 9/10/19 at 10:00 a.m. with a deadline of 8/9/19 for Movant to serve file and serve a supplement to the Motion to address the foregoing issues, and to serve the Motion and Notice of the Continued Hearing on all potential beneficiaries parties.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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Hearing Room 1545

10:00 AM

CONT... Tracy Allen Poe

Chapter 13

Debtor(s):

Tracy Allen Poe

Represented By
D Justin Harelik

Movant(s):

David Posner

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-12611 Margarita Dolores Gonzalez

Chapter 13

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/06/19

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Tentative Ruling for 9/10/19:

Continue to 10/29/19 at 10:00 a.m. in view of Debtor's entry into the LMM program (see Order, dkt.42) and Debtor's status report (dkt.41). If Debtor is performing under the LMM trial period, and files a declaration saying so prior to the continued hearing, then this Court anticipates a further continuance of this hearing. Appearances are not required on 9/10/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for for 8/6/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Margarita Dolores Gonzalez Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Margarita Dolores Gonzalez

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/20/19

JP MORGAN CHASE BANK, NATIONAL ASSOCIATION
VS
DEBTOR

Docket 78

***** VACATED *** REASON: Settled by stipulation (dkt. 99) and order
thereon (dkt. 101)**

Tentative Ruling:

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia
Todd S Garan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:19-15887 Cheryl Lynn Williams

Chapter 13

#25.00 **[CASE DISMISSED ON 9/5/19]**

Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/20/19

THE ESTATE OF WILLIAM WALTER SELLERS
vs
DEBTOR

Docket 23

Tentative Ruling:

Tentative Ruling for 9/10/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

There is no automatic stay

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In addition and in the alternative, the tentative ruling is to grant the following relief.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT...

Cheryl Lynn Williams

Chapter 13

analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Cheryl Lynn Williams

Chapter 13

Tentative Ruling for 8/20/19:

Continue to 9/10/19 at 10:00 a.m., with a deadline of 8/22/19 for Movant (1) to serve Debtor via U.S. mail, as explained below, and (2) to file a proof of service. Appearances are not required on 8/20/19.

Reasons:

The proof of service does not show service on both (i) Debtor's counsel and (ii) Debtor individually ("double service"), as required by Rules 7004(b) (9)&(g) and 9014(a), Fed. R. Bankr. P.). The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules. It is true that this double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cheryl Lynn Williams

Represented By
Marc A Goldbach

Movant(s):

The Estate of William Walter Sellers

Represented By
Anthony J Rothman Esq

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Cheryl Lynn Williams

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:17-19706 Alvin D. Jones and Melodi A. Jones

Chapter 13

#26.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 43

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

CONT... Alvin D. Jones and Melodi A. Jones

Chapter 13

Party Information

Debtor(s):

Alvin D. Jones

Represented By
Stephen Parry

Joint Debtor(s):

Melodi A. Jones

Represented By
Stephen Parry

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

10:00 AM

2:14-18247 Abel De Jesus Amaya

Chapter 13

#27.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/07/19

U.S. BANK NATIONAL ASSOC
VS
DEBTOR

Docket 57

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Abel De Jesus Amaya

Represented By
William G Cort

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:17-15488 Stefani Rose Albright

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application of fees and expenses
[Peter J Mastan, Trustee]

Docket 53

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$20,511.92 in fees, and \$14.25 in expenses, for a total of \$20,526.17. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Stefani Rose Albright

Represented By
Nicholas M Wajda

Trustee(s):

Peter J Mastan (TR)

Represented By
Lovee D Sarenas

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:17-15488 Stefani Rose Albright

Chapter 7

#2.00 Hrg re: First and Final Application for Fees and Reimbursement of Expenses [Lewis Brisbois Bisgaard & Smith LLP, Attorney for Chapter 7 Trustee]

Docket 50

Tentative Ruling:

Allow Lewis Brisbois Bisgaard & Smith LLP \$46,951.00 in fees and \$196.35 in expenses, for a total of \$47,147.35. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Stefani Rose Albright

Represented By
Nicholas M Wajda

Trustee(s):

Peter J Mastan (TR)

Represented By
Lovee D Sarenas

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:17-15488 Stefani Rose Albright

Chapter 7

#3.00 Hrg re: First and Final Application for Fees
and Reimbursement of Expenses
[LEA Accountancy, LLP - Accountant]

Docket 51

Tentative Ruling:

Allow LEA Accountancy, LLP \$12,856.50 in fees and \$214.19 in expenses,
for a total of \$13,070.69. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within
7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you
wish to dispute the tentative ruling, or for further explanation of "appearances
required/are not required," please see Judge Bason's Procedures (posted at
www.cacb.uscourts.gov) then search for "tentative rulings." If appearances
are required, and you fail to appear without adequately resolving this matter
by consent, then you may waive your right to be heard on matters that are
appropriate for disposition at this hearing.

Party Information

Debtor(s):

Stefani Rose Albright

Represented By
Nicholas M Wajda

Trustee(s):

Peter J Mastan (TR)

Represented By
Lovee D Sarenas

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:17-19925 Willie John Riley

Chapter 7

#4.00 Hrg re: Trustee's final report and account;
Application of fees and expenses
[Howard M. Ehrenberg, Trustee]

Docket 163

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$55,650.00 in fees, and \$13.60 in expenses, for a total of \$55,663.60. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Willie John Riley

Represented By
Levi Reuben Uku

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Jason Balitzer
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:17-19925 Willie John Riley

Chapter 7

#5.00 Hrg re: First and final fee application
[Filed by SulmeyerKupetz, Attorney for Chapter 7 Trustee]

Docket 160

Tentative Ruling:

Allow SulmeyerKupetz \$59,225.00 in fees and \$1,400.76 in expenses, for a total of \$60,625.76. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Willie John Riley

Represented By
Levi Reuben Uku

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Jason Balitzer
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:17-19925 Willie John Riley

Chapter 7

#6.00 Hrg re: First and Final Application for Fees
and Reimbursement of Expenses
[Menchaca & Company, LLP - Accountant]

Docket 162

Tentative Ruling:

Allow Menchaca & Company LLP \$7,928.50 in fees and \$12.45 in expenses for a total of \$7,940.95. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Willie John Riley

Represented By
Levi Reuben Uku

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Jason Balitzer
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:18-01233 Pachulski v. Young et al

#7.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Preferential Transfers fr. 11/27/18, 4/30/19, 06/04/19

Docket 10

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #5 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Jeffery Young

Represented By
Gary R Wallace

Conal Doyle

Represented By
M. Jonathan Hayes

Wilshire Law Firm, PLC

Represented By
M. Jonathan Hayes

Babak Bobby Saadian

Represented By
M. Jonathan Hayes

Neifert Khorshid

Represented By
M. Jonathan Hayes

Plaintiff(s):

Richard M Pachulski

Represented By
James KT Hunter

Trustee(s):

Richard Pachulski (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

CONT... Layfield & Barrett, APC

Chapter 11

Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01197 Koi Design LLC v. Mastroianni et al

- #8.00** Cont'd status conference re: Complaint (1) Intentional Breach of Fiduciary Duty; (2) Fraudulent Concealment; (3) Breach of Fiduciary Duty; (4) Legal Malpractice; (5) Negligent Supervision; (6) Constructive Fraud; (7) Avoidance and Recovery of Fraudulent Transfers; and (8) Turnover of Property of the Estate fr. 9/3/19

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The tentative ruling is to continue this status conference to 10/15/19 at 11:00 a.m., with no written status report required, in view of the 9/16/19 hearing before the District Court on the motion to withdraw the reference (see adv. dkt. 28, p.2). Meanwhile, the parties should be prepared to address (a) whether it makes sense for this Bankruptcy Court to order mandatory mediation, either at this time or after some preliminary discovery, (b) whether the scope of any such mediation should include all matters concerning the parties' disputes in any forum (before an arbitrator, or the District Court, or otherwise), (c) whether it makes sense to include third parties such as the major secured and unsecured creditors - *e.g.*, the bank with a lien on Debtor's assets, or Strategic Partners, Inc. - in any such mediation, or if that would only complicate matters unduly, and/or (d) whether this Bankruptcy Court should stay these proceedings pursuant to Rule 5011(c) (Fed. R. Bankr. P.) and/or defer to the District Court's procedures regarding any mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

CONT... Koi Design LLC

Chapter 11

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

A. Douglas Mastroianni

Pro Se

Marron Lawyers, APC

Pro Se

The Bloom Firm, APC

Pro Se

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:19-11828 Bret Russell Witke

Chapter 7

Adv#: 2:19-01192 Mesnick v. Witke et al

#9.00 Cont'd Status conference re: Complaint for the non-dischargeability of debt pursuant to 11 U.S.C. sections 523(a)(2)(A), (a)(4) and (a)(6) fr. 9/3/19

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the parties' joint status report (adv. dkt. 7) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences, except that in view of the parties' Status Report the tentative ruling is not to order mediation at this time. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

CONT... **Bret Russell Witke**

Chapter 7

(authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. [Intentionally omitted.]

(3) Deadlines: This adversary proceeding has been pending since 6/27/19.

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 10/15/19.

Continued status conference: 10/29/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Bret Russell Witke

Represented By

Michael H Raichelson

Defendant(s):

Bret Russell Witke

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

CONT... Bret Russell Witke

Chapter 7

Bret Russell Witke Design Inc.

Pro Se

Plaintiff(s):

Michael Mesnick

Represented By
Craig G Margulies

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

2:19-12964 John Martin Kennedy

Chapter 13

Adv#: 2:19-01189 Campos v. Kennedy

#10.00 Cont'd status conference re: Complaint to determine nondischargeability of debt pursuant to 11 U.S.C. section 1328(a)(4) fr. 9/3/19

Docket 1

Tentative Ruling:

Appearances required. This Court has reviewed the parties' joint status report (adv. dkt. 5) and the other filed documents and records in this adversary proceeding.

Preliminary matters

The tentative ruling is to continue this status conference as set forth below, and meanwhile to address with the parties (1) whether the mediation on 8/23/19 resulted in any clarification of the issues or partial resolution; (2) whether it makes sense for Judge Bason to discuss with Judge Robles the possibility of transferring this adversary proceeding to him (without transferring the underlying chapter 13 case, because Judge Robles is not one of the Judges of this Court who hears chapter 13 matters); and (3) the anticipated time-line for the pending appellate matters in the nonbankruptcy courts regarding attorney fees.

The following are Judge Bason's standard requirements for status conferences, except that the mediation section has been omitted in view of the parties' Status Report. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

CONT... **John Martin Kennedy**

Chapter 13

See generally Stern v. Marshall, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. [Intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since 6/25/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 10/15/19.

Continued status conference: 10/29/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, September 10, 2019

Hearing Room 1545

11:00 AM

CONT... **John Martin Kennedy**

Chapter 13

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Defendant(s):

John Martin Kennedy

Pro Se

Plaintiff(s):

Yunuen Campos

Represented By
Lauren A Dean

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 10, 2019

Hearing Room 1545

1:00 PM

2:19-18998 NAMR1726 LLC

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/26/19 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

**United States Bankruptcy Court
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1:00 PM

CONT... NAMR1726 LLC

Chapter 11

Movant(s):

NAMR1726 LLC

Represented By
Thomas B Ure

**United States Bankruptcy Court
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1:00 PM

2:19-18998 NAMR1726 LLC

Chapter 11

#2.00 Hrg re: Maxim Commercial Capital, LLC's motion for sanctions against Thomas B. Ure and the Ure Law Firm for Violation of Rule 9011

Docket 32

***** VACATED *** REASON: Cont'd to September 24, 2019 at 1:00 p.m.
[dkt 48]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#3.00 Hrg re: Motion for relief from stay [RP]

ALLIANCE PORTFOLIO, PRIVATE EQUITY FINANCE
vs
DEBTOR

Docket 40

Tentative Ruling:

Grant the motion of Alliance Portfolio, Private Equity Finance, Inc. ("Alliance") Motion for Relief From The Automatic Stay (dkt. 40, 41), on the terms set forth below, based on this Court's review of that motion, Debtor's opposition (dkt. 44), Alliance's reply (dkt. 50), and the other facts and circumstances, including this Court's review of Debtor's prior bankruptcy case and the order in this case (dkt.31) continuing the automatic stay. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any

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CONT...

Ashley Susan Aarons

Chapter 11

bankruptcy case purporting to affect such property and filed within 180 days after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the grounds for "*in rem*" relief unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks a finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

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CONT... Ashley Susan Aarons

Chapter 11

Movant(s):

Alliance Portfolio, Private Equity

Represented By
Robert P Goe

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2:19-18316 Ashley Susan Aarons

Chapter 11

#4.00 Hrg re: Motion in Individual Ch 11 Case for
Order Employing Professional (LBR 2014-1):
The Turoci Firm as General Bankruptcy Counsel

Docket 23

Tentative Ruling:

Deny the motion, under both subsections "(a)" and "(e)" of 11 U.S.C. 327.
Appearances required.

Analysis

Debtor's motion (dkt. 23) and supplement (dkt. 28) seek employment of The Turoci Firm. The United States Trustee has filed an opposition (dkt. 30), and Debtor has filed a reply (dkt. 38).

The Bankruptcy Code requires that general bankruptcy counsel be "disinterested" (11 U.S.C. 327(a)), which means a person who is "not a creditor" (among other things). 11 U.S.C. 101(14)(A). In other words, the statute prohibits general bankruptcy counsel from holding any claim, not just a secured claim.

Debtor cites authority from other jurisdictions that a security interest in favor of proposed bankruptcy counsel is not necessarily disqualifying. See Reply (dkt. 51). But those out-of-circuit decisions are not binding; the authority in the Ninth Circuit appears to disfavor security interests (except in cash retainers); and the tentative ruling is that employment is not permitted in the circumstances of this case.

Debtor cites *In re Martin*, 817 F.2d 175 (1st Cir. 1987) (security interest in debtor's property does not *per se* disqualify proposed counsel), and *In re Watson*, 94 B.R. 111 (Bankr. S.D. Ohio 1988) (following *Martin*). But in this circuit the Bankruptcy Appellate Panel (the "BAP") has held that "a professional with a claim secured by the debtor's property [is] not disinterested as a matter of law." *In re CIC Inv. Corp.*, 175 B.R. 52, 53 (9th Cir. BAP 1994) (emphasis added), *but cf. id.* at 56 n.4 (distinguishing *Martin*). See also, e.g., *In re Escalera*, 171 B.R. 107 (Bankr. E.D. Wash. 1994) (declining to follow *Martin*, and distinguishing retainers from security interests in other estate property).

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Chapter 11

More generally, the BAP has stated: "We have previously acknowledged that '[t]he courts do not agree on whether counsel with a prepetition claim [*i.e.*, either a secured claim or an unsecured claim] against the debtor is absolutely barred from representing the trustee or debtor in possession as general counsel,' but we have come down firmly on the side of the courts barring such representation." *In re Triple Star Welding, Inc.*, 324 B.R. 778, 791 n.17 (9th Cir. BAP 2005) (emphasis added, citations omitted). *Compare In re Dick Cepek, Inc.*, 339 B.R. 730 (9th Cir. BAP 2006) (2-1 decision) (professional holding security retainer would not be required to disgorge it if it had been adequately disclosed, despite lack of equal distribution among administrative claims), *on appeal after further proceedings*, 300 Fed.Appx. 497 (9th Cir. 2008) (disgorgement required because asserted security interest had not been adequately disclosed).

The analysis is somewhat different when the proposed professional does not directly hold a claim. In that instance the question is whether the professional "does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason." 11 U.S.C. 101(14)(C) (emphasis added). *Cf. In re AFI Holding, Inc.*, 530 F.2d 832, 844-49 (9th Cir. 2008) (noting, in case involving removal of trustee, that 11 U.S.C. 101(14)(C), unlike (14)(A), requires "materially" adverse interest).

The tentative ruling is that (1) a secured loan that came directly from proposed bankruptcy counsel for a debtor would create an inherent lack of disinterestedness; (2) that lack of disinterestedness cannot be resolved by arranging the secured loan through a lending business owned by the firm's principal; and (3) the lack of disinterestedness also cannot be resolved by subsequently transferring the loan and security interest to an independent third party.

(1) A secured loan directly from proposed counsel would create an inherent lack of disinterestedness

Some courts (such as *Martin*) point out that, as soon as a lawyer performs any services, that lawyer is owed a debt by the debtor/estate, and on that basis those courts decline to read the statute literally. But this Court must apply the plain meaning of the statute, unless that would produce absurd results.

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Congress chose to draw a bright line between prepetition claims, which disqualify counsel under 11 U.S.C. 101(14)(A) and 327(a), and postpetition administrative expenses, which do not disqualify counsel. That bright line is not absurd.

Congress rationally could conclude that prepetition claims present the risk of skewing a professional's economic incentives for or against other classes of creditors. Conversely, Congress rationally could conclude, there is substantially less risk for postpetition administrative expenses, because those expenses must be based on "necessary services" and are scrutinized to see if they "were necessary to the administration of, or beneficial ... toward completion of," the bankruptcy case. 11 U.S.C. 330(a)(1)(A) & (3)(C).

The rational basis for this distinction is reinforced by an examination of the economic incentives of secured and unsecured creditors, which generally are in opposition to one another. That can be illustrated with a hypothetical example.

Suppose that a hypothetical debtor in possession (the "DIP") has parcels of real estate without much equity, but enough to secure a loan from the law firm that seeks to be retained as general bankruptcy counsel. Like any DIP, this debtor will have to make choices on all sorts of issues, such as whether to adopt a risky but potentially lucrative business plan for using the property as an Airbnb.

The economic incentive usually is for unsecured creditors to favor any risky strategy, because even a risky gambit is better than the certainty of little or no dividend at all. Conversely, the economic incentive for secured creditors usually is to minimize risk: any risk generally poses only a "down-side" exposure, with no possibility of any "up-side" because secured claims generally are capped at the value of the collateral (under 11 U.S.C. 506(b)).

Like anyone in charge of a business with conflicting constituencies, a DIP must strive not to be biased against any class of creditors, and instead take whatever course of action will have the best overall chance of maximizing the value of the estate. *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300, 327-30 (Bankr. C.D. Cal. 2016); *and see Credit Lyonnais Bank Nederland N.V. v. Pathe Communications Corp.*, 1991 WL 277613 at n.55 (Del. Ch. Dec. 30, 1991) (illustrating concept of maximizing value, despite conflicting constituencies, using a hypothetical discounted present value analysis to assess different courses of action).

For these reasons, any proposed general bankruptcy counsel who

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Chapter 11

holds a secured claim against the bankruptcy estate has economic incentives that may be adverse to unsecured claims (or other classes of secured claims). In fact, holding any claim - secured or unsecured - places such counsel at risk of being adverse to other classes of creditors.

Of course, the interests of secured creditors and unsecured creditors sometimes align. But the problem is that it is impossible to know in advance when the interests will be aligned, and meanwhile the proposed professional who holds a claim (secured or unsecured) has an economic incentive that may be adverse to at least some creditors.

In sum, Congress chose to draw a bright line barring professionals who hold claims from employment under 11 U.S.C. 327(a). That bright line is not absurd, so this Court must apply the plain meaning of the statute.

Therefore, if The Turoci Firm held a claim (secured or unsecured) as of the petition date, it would be disqualified. The next question is whether the outcome is different because the lending relationship was indirect.

(2) The lack of disinterestedness cannot be resolved by arranging the secured loan through an entity owned by the firm's principal

The requirement to be "disinterested" encompasses not just a bar on being a "creditor" directly but also a requirement that proposed counsel "not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason." 11 U.S.C. 101(14)(C) (emphasis added). The tentative ruling is that, when Congress chose to draw a bright line prohibiting proposed professionals from holding any "claim," it would not be consonant with Congressional intent to permit the professional to hold a claim indirectly.

From a practical standpoint, there is no difference. If Mr. Turoci's lending business holds a claim, his and his law firm's economic incentives are the same as if his law firm held the claim directly. That was the situation in which The Turoci Firm found itself at the inception of this case. See Supplement to Motion (dkt.28).

(3) The lack of disinterestedness cannot be resolved by subsequently transferring the loan and security interest to an independent third party

Based on the foregoing analysis, The Turoci Firm was disqualified at the inception of this case because of its indirect claim against the bankruptcy

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Chapter 11

estate (through the firm's principal's lending business). The question is whether, by transferring the loan and security interest, the disqualification can be cured.

The tentative ruling is that it cannot. First, selling the loan does not retroactively change The Turoci Firm's economic incentives during the prior times when it rendered services.

Second, the very process of selling the loan may have been tainted by The Turoci Firm's economic incentives. Any buyer of that loan had an interest in assessing how risky the loan might be, which gets back to how much risk will be taken by the debtor - advised by its general bankruptcy counsel. If the risk is high then the prospective purchaser of the \$25,000 loan might be able to buy the loan for a substantial discount. So Mr. Turoci had an incentive to minimize whatever risks exist, so that his lending business would be paid as close to \$25,000 as possible.

But, from the standpoint of the bankruptcy estate's future negotiations with the new holder of that claim, it might be best to maximize whatever risks exist. A purchaser of the loan who buys it for \$10,000, and thinks of the loan as a risky venture, might be much more willing to accept a chapter 11 plan that will pay \$10,000 over time than a purchaser who buys the loan for \$25,000.

Third, it is impossible to know what ongoing consequences the conflicts of interest might have had, beyond the time when the loan was sold. For example, suppose that during the first weeks of this case The Turoci Firm advised Debtor in ways that favored a sale of the real estate rather than attempting to start an Airbnb business. It is impossible to know if that advice might have been tainted by an awareness of the possible effects on the secured claim that was then held by Mr. Turoci's lending business. Now, after the loan has been sold, it may be too late to adopt a different strategy or tactics.

Of course, the above discussion includes only some hypothetical illustrations of how the economic incentives might cause problems. In actuality there might be different issues that arise, or it might be that there were not any adverse effects. The point is only that, once The Turoci Firm held a claim against property of the estate, that created a lack of disinterestedness that could have had adverse effects, prior to, during, and after the time the loan was sold.

Caveat: This Court wishes to emphasize that there is no evidence in

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Chapter 11

the record that Mr. Turoci or The Turoci Firm has actually taken any act, or omitted to do any act, that would have an actual adverse effect on the bankruptcy estate. To the contrary, so far as this Court is aware, Mr. Turoci and The Turoci Firm have attempted to help Debtor obtain the benefits of that law firm's services, which in turn appears to be an attempt to help Debtor fulfill the duties of a DIP for the benefit of creditors and all parties in interest.

The point is only that the statute requires disqualification of general bankruptcy counsel based not only on actual conflicts but also for a lack of "disinterestedness." 11 U.S.C. 327(a). The tentative ruling is that the lending relationship, through Mr. Turoci's lending business, inherently creates a lack of disinterestedness that cannot be cured by subsequently selling the loan.

(4) Section 327(e) does not provide an "end run" around the foregoing limitations

The Reply suggests that, if employment cannot be authorized under subsection "(a)" of section 327, perhaps it can be authorized under subsection "(e)," "for the limited purposes of initiating the case and sheparding Debtor through the first few months." Reply (dkt. 51), p.3:10-14. The tentative ruling is that this solution, while creative, is not workable.

True, Section 327(e) provides does not include the "disinterestedness" requirement. But it provides that the DIP, acting as a trustee for the benefit of creditors under 11 U.S.C. 1101(1) and 1107), may employ "for a specified special purpose, other than to represent the [DIP] in conducting the case," an attorney who previously represented the debtor, if that is in the best interest of the estate and if such attorney "does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed." (Emphasis added.)

The problem is that (a) The Turoci Firm has been representing Debtor "in conducting the case" and, alternatively, (b) The Turoci Firm has, at least while its principal held a claim against the estate (through his lending business), held an "interest adverse to ... the estate" with respect to the general representation of the bankruptcy estate in conducting the case. Therefore, the tentative ruling is that The Turoci Firm's employment cannot be authorized under 11 U.S.C. 327(e).

(5) Conclusion

This Court is empathetic to debtors who lack the funds to hire

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bankruptcy counsel, and is also empathetic to proposed bankruptcy counsel who attempt to solve that problem by arranging for loans. Unfortunately for those parties, the tentative ruling is that the arrangements in this case disqualify The Turoci Firm from employment.

Caveat: This issue has not been extensively briefed by the parties; the decisions appear to be sparse; and the law in this area appears to be somewhat unclear. This Court is very much aware of the substantial consequences of the foregoing tentative ruling on The Turoci Firm, Debtor, the bankruptcy estate, and other parties in interest. The parties should be prepared to address whether they will seek further briefing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

Movant(s):

Ashley Susan Aarons

Represented By
Todd L Turoci
Todd L Turoci

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2:19-18316 Ashley Susan Aarons

Chapter 11

#5.00 Cont'd status Conference re: Chapter 11 Case
fr. 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/10/19:

Appearances required.

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

Grant, as set forth in calendar no. 3 (9/10/19 at 1:00 p.m.).

(b) Employment Motion for The Turoci Firm (dkt. 23, 28)

Deny, as set forth in calendar no. 4 (9/10/19 at 1:00 p.m.). The parties should be prepared to address whether Debtor has arranged for alternate counsel.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Ashley Susan Aarons

Chapter 11

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by debtor herself.

(1) Current issues

(a) Airbnb

Debtor's budget motion (dkt. 37, Ex.A, p.2) reveals that, although the Sweetzer property is "listed to be sold," meanwhile "Debtor intends to rent [that property] as an Airbnb." The tentative ruling is that this is a transaction out of the ordinary course, which requires notice, an opportunity for a hearing, and approval by this Court. 11 U.S.C. 363(b). Has Debtor already acted on this intent, without such approval?

In addition, this Court is concerned about (i) whether Airbnb rental would be in compliance with any local permitting and zoning requirements and is otherwise permissible, (ii) whether that proposed use might expose the bankruptcy estate to liabilities, (iii) whether there is adequate insurance for that use of the property, and (iv) whether the proposed sale of the property is consistent with any agreement with Airbnb.

(b) Real estate agent.

The employment application (dkt. 26, p.4:1-4) states that Agent has agreed to disclose to Debtor [i.e., only to Debtor? how about disclosure to creditors, the US Trustee, and this Court?] any agency relationship Agent has with other parties ("Third Parties") that may be part of a real estate transaction for the sale of the Real Property [i.e., dual agency? that is prohibited by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)] as well as the amount of any compensation Agent receives from Agent's relationship with any Third Parties [i.e., splitting the commission with a cooperating agent from a different real estate agency? or something else?].

What does the quoted text mean? This Court's questions are set forth in the emphasized, bracketed text above.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

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2:18-12429 Dana Hollister

Chapter 11

#6.00 Hrg re: Joint motion under rule 9019 for orders approving:
(1) Special durable power of attorney pursuant to term sheet
settlement, (2) Second stipulation regarding limited objection
of Pierre Casanova to motion to approve term sheet settlement,
and (3) Conditional settlement agreement

Docket 916

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 7,
9/10/19 at 1:00 p.m.)

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:18-12429 Dana Hollister

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19, 8/6/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/10/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Debtor and Agent Dean Rallis' Settlement Motion (dkt. 916)

The parties should be prepared to address the issues raised in Bob's LLC's limited opposition (dkt. 927) and Pierre Casanova's statement of clarification (dkt. 928).

The tentative ruling is to excuse any requirement for approval of the employment of real estate professionals regarding the Cliffs Entities (dkt. 916, p.12:11-25). Although the fact that Debtor is causing those entities to be sold appears to be a transaction out of the ordinary course of Debtor's business, and normally that would require approval under 11 U.S.C. 363(b), which probably would include safeguards as to the professionals' lack of conflicts, those things are sufficiently addressed by this Court's prior approval of Ms. Haro and the Agent, combined with the terms of the proposed settlement and related agreements. In addition, notice of the proposed arrangements with professionals and transactions is sufficient under Rules 2002(a)(3) and 9019 (Fed. R. Bankr. P.).

(b) Procedures relating to filed Plan (dkt. 932) and Disclosure Statement (dkt. 931)

The parties should be prepared to address what procedures should apply, such as the timing of any future hearings and whether to hold separate or combined hearings on whether to approve the Disclosure Statement and

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CONT... **Dana Hollister**
whether to confirm the Plan.

Chapter 11

(2) Deadlines/dates.

This case was filed on 3/6/18.

- (a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)
- (b) Plan/Disclosure Statement*: Filed 9/3/19 (dkt. 931, 932)
- (c) Continued status conference: 10/15/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#8.00 Hrg re: First and final application for compensation and Reimbursement of Expenses of Michael Jay Berger

Docket 128

Tentative Ruling:

Allow the Law Offices of Michael Jay Berger \$51,907.50 in fees and \$1,009.05 in expenses, for a total of \$52,916.55. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger
Phillip W Gillet Jr

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2:19-16754 JDS Hospitality Group, LLC

Chapter 11

#9.00 Cont'd status conference re: Chapter 11 case
fr. 7/2/19, 7/9/19, 7/23/19

Docket 15

Tentative Ruling:

Tentative Ruling for 9/10/19:
Appearances are not required.

(1) Current issues

(a) Berger fee application (dkt.128)

Grant as set forth in the tentative ruling for calendar no.8 (9/10/19 at 1:00 p.m.).

(2) Deadlines/dates

This case has been dismissed (dkt.115). The tentative ruling is that no further status conference or other hearings need to be set at this time (but, as always, if any matters arise in future then this Court will hold a concurrent status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

JDS Hospitality Group, LLC

Represented By
Michael Jay Berger

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2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#10.00 Hrg re: Application for payment of final fees and/or expenses
On Behalf Of Anyama Law Firm For Debtor In Possession

Docket 99

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 11,
9/10/19 at 1:00 p.m.)

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 4/10/18, 5/1/18, 6/12/18, 08/07/18, 9/4/18,
10/16/18, 11/6/18, 12/11/18, 01/15/19, 2/26/19,
3/26/19; 04/30/19, 6/11/19, 7/20/19

Docket 7

Tentative Ruling:

Tentative Ruling for 9/10/19:

Appearances are not required.

(1) Current issues

(a) Final Fee Application - Anyama Law Firm (dkt. 99)

Allow Anyama Law Firm \$13,790.00 in fees and \$599.92 in expenses,
for a total of \$14,389.92.

Proposed order: Movant is directed to lodge a proposed order via LOU within
7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 6/15/18 (dkt. 23). Timely served (dkt. 41).

(b) Plan/Disclosure Statement (dkt. 74, 75)*: Confirmed (dkt. 94)

(c) Post-confirmation status conference: 10/15/19 at 1:00 p.m. Status
report due 10/1/19.

*Warning: special procedures apply (see order setting initial status
conference).

If appearances are not required at the start of this tentative ruling but you
wish to dispute the tentative ruling, or for further explanation of "appearances
required/are not required," please see Judge Bason's Procedures (posted at
www.cacb.uscourts.gov) then search for "tentative rulings." If appearances
are required, and you fail to appear without adequately resolving this matter
by consent, then you may waive your right to be heard on matters that are
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[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

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CONT... Abelino Mariscal Gonzalez

Chapter 11

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#12.00 Cont'd hrg re: Motion for an Order Authorizing the Continued Use of Cash Collateral on Extended Budget fr. 5/7/19

Docket 156

Tentative Ruling:

Tentative Ruling for 9/10/19:

Please see the tentative ruling for the status conference (calendar no. 13, 9/10/19 at 1:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 7, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19, 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/10/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Continued use of cash collateral (dkt. 156, 231), notice of a hearing and second extended budget (dkt. 330), Cathay Bank's opposition (dkt. 344), and the parties' joint statement (dkt. 357)

The parties should be prepared to address any remaining issues between the parties re cash collateral.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

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2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

#1.00 Hrg re: Motion For Summary Judgment on all causes of action or in the alternative summary adjudication

Docket 36

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
James R Selth
Michael D Anderson

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian
James R Selth

Valerie Fykes

Represented By
Michael D Anderson
James R Selth

Forrest Fykes JR

Represented By
Michael D Anderson
James R Selth

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CONT... Armen Janian
Melissa Fykes

Chapter 7

Represented By
Michael D Anderson
James R Selth

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

- #2.00** Cont'd Status Conference re: Complaint for Non-Dischargeability of Debtor Pursuant to 11 U.S.C. Section 523(a)(4) and 11 U.S.C. Section 523(a)(6)
fr. 7/19/16, 12/13/16, 05/02/17, 09/12/17, 2/27/18, 6/12/18, 10/9/18, 12/18/18, 1/29/19, 2/26/19, 5/7/19, 06/04/19; 08/06/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/10/19:
Appearances required.

(1) Current issues

(a) Plaintiffs' motion for summary judgment ("MSJ," adv. dkt. 36-39), Defendant's opposition (adv. dkt. 41, 42), Plaintiffs' reply (adv.dkt.43), Defendant's motion to strike (adv.dkt.44)

There is no tentative ruling. The parties are directed to address the procedural and substantive issues raised in their filed papers.

(2) Dates/deadlines

This adversary proceeding has been pending since 1/4/16. It has been continued multiple times to permit the parties to finish litigating in non-bankruptcy court.

The tentative ruling is to continue this status conference to 10/15/19 at 2:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Armen Janian

Chapter 7

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
James R Selth
Michael D Anderson

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian
James R Selth

Valerie Fykes

Represented By
Michael D Anderson
James R Selth

Forrest Fykes JR

Represented By
Michael D Anderson
James R Selth

Melissa Fykes

Represented By
Michael D Anderson
James R Selth

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#3.00 Hrg re: Motion to Compel Chapter 11 Trustee to File
Income Tax Returns, Payroll Tax Returns, Issue W-2S,
Pay Required Taxes Due, File Appropriate Carryback
Returns and Discharge Duties Regarding Employee Benefit
Plans

Docket 443

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 4, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19

Docket 323

Tentative Ruling:

Revised Tentative Ruling for 9/10/19

Appearances required, except for in *Pachulski v. Young et al.*, Adv. Case No. 2:18-ap-01233-NB.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases and associated matters: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."); (c) *Pachulski v. Young et al.*, Adv. Case No. 2:18-ap-01233-NB ("Preference Adv."); (d) *Pimentel v. Layfield et al.*, Adv. Case No. 2:19-ap-01069-NB ("Pimentel Adv."); (e) *Pachulski v. Layfield et al.*, Adv. Case No. 2:19-ap-01071-NB ("Dischargeability Adv.")

On the individual motions discussed below, this Court anticipates issuing a written "Memorialization of Tentative Rulings" which can then be incorporated by reference into the orders on each motion, subject to any changes to the tentative rulings that this Court may make at the hearing.

(b) Mr. Layfield has not filed adequate proofs of service

Mr. Layfield's papers lack adequate proofs of service. He apparently takes the position that this Court has excused him from serving papers and/or filling out proofs of service. He is wrong.

Mr. Layfield's position is reflected in his recent proofs of service (Lay-Invol. dkt.243 & 244, p.3, para.2) which assert that the "clerk [of this Court] shall issue NEF and Debtor is not required to serve those parties on List to Receive NEF," allegedly pursuant to "10/22/18 Docket #128 [sic]." (Emphasis added.) The referenced Docket #128 is irrelevant: it is a proof of service of a

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Chapter 11

joinder in the involuntary petition. See L&B dkt.128.

Mr. Layfield apparently means to refer to this Court's "PDF Protocol" (Lay-Invol. dkt.88, adopted by Order at Lay-Invol.dkt.111, p.3:8-11 and L&B dkt.367). The PDF Protocol is a special accommodation to Mr. Layfield: as set forth in therein, he had (among other things) filed one motion that he estimated to be 3,500 to 4,000 pages long, and such voluminous papers were causing an undue burden and delays for all parties in interest and this Court's staff; but, rather than limit the number of pages that Mr. Layfield could file, this Court adopted the PDF Protocol.

The PDF Protocol requires Mr. Layfield (i) to file documents in PDF format on CDs and (ii) to serve "each person whom he is required to serve under the applicable rules or any orders of this Court" by mailing them such CDs with PDFs. Lay-Invol.dkt.88, p.5:3-14. Notwithstanding this special requirement (to serve CDs with PDFs via U.S. mail), Mr. Layfield is excused from servicing CDs for those parties who are served via NEF. *Id.* But nothing excuses him from the requirements that he, like every other party, must serve everyone who is required to be served and file a proof of service, which must identify who was served via NEF.

These requirements are important. Among other things, not everyone is served via NEF, and even for those parties who are on NEF a proper proof of service is required to identify those parties, including an explicit indication of how they are "related to the case or adversary proceeding." LBR 9013-3(d); *and see* LBR 9001-1(39), 9013-1(e). For example, if there were a hypothetical NEF email address of "xyz@randomemail.com" that would not identify who was served, so a proper proof of service should state something like: "John Doe, Esq., Attorney for Bank of the North Pole, at xyz@randomemail.com." Otherwise parties in interest, and this Court, are not notified who was actually served.

There are numerous other problems with Mr. Layfield's service of papers. Examples include failure to state what document was (allegedly) served, failure to have someone (not a party to the proceeding) sign the proof of service, and failure to serve persons who are required to be served. These defects are addressed below if they appear sufficiently problematic to affect the outcome.

(c) Mr. Layfield has failed to establish that he has standing and/or is the real party in interest

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Layfield & Barrett, APC

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This Bankruptcy Court has an independent duty to consider whether any person who seeks or opposes any relief has standing to do so. This Court also must consider the closely related concept of whether such person is the real party in interest. See *In re Veal*, 450 B.R. 897, 906-08 (9th Cir. BAP 2011).

Mr. Layfield has not established how he has standing and is the real party in interest in any of the matters on which he has filed papers. In general a chapter 7 debtor is supplanted by a bankruptcy trustee who controls the bankruptcy estate, and such a debtor lacks standing, and is not the real party in interest, (a) to pursue any claims that used to belong to the debtor and now belong to his bankruptcy estate (*i.e.*, any claims that Mr. Layfield might have had against the L&B chapter 11 estate generally belong to his chapter 7 bankruptcy estate, and are controlled by the Lay-Invol Trustee, not by Mr. Layfield), (b) to object to creditors' claims, (c) to seek removal of a chapter 7 or chapter 11 trustee, or (d) to request any similar relief in the chapter 7 or chapter 11 cases.

In common sense terms, how a chapter 7 bankruptcy estate is administered and divided among creditors is a matter of concern to creditors, not a chapter 7 debtor. There is an exception if, for example, the chapter 7 debtor provides evidence of the likely solvency of the bankruptcy estate, because then the allowance or disallowance of claims might actually affect the debtor. But Mr. Layfield's motion papers provide no evidence that the estate is solvent or any other relevant facts. Accordingly the tentative ruling is that he has forfeited any such arguments.

Alternatively, even if this Court did not start with the usual rule that a chapter 7 debtor generally lacks standing, the tentative ruling is that there is *prima facie* evidence in the record of these particular cases that Mr. Layfield lacks standing and is not the real party in interest. Mr. Layfield has not rebutted that evidence.

To be clear, this Court is not ruling that it would be impossible for Mr. Layfield to establish that he has standing and is the real party in interest. Perhaps he could have done so. The point is only that, on the present record, he appears to lack standing and not be the real party in interest, and he has failed to show otherwise.

Alternatively, this Court is addressing the merits as set forth below.

(d) Mr. Layfield's motion to compel (L&B dkt. 443), Chapter 11

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Trustee's opposition (L&B dkt. 452), and Mr. Layfield's Reply (L&B dkt. 453, filed 9/9/19 at 3:17 p.m.)

(i) Striking the motion is an appropriate remedy for Mr. Layfield's use of these proceedings for improper purposes

The tentative ruling is to strike the motion to compel for the reasons stated in the Chapter 11 Trustee's opposition. See L&B dkt.452, pp.6:17-7:24. Specifically, the tentative findings of fact are that Mr. Layfield, as a (former) attorney with years of experience, is well aware of the need to file motion papers with evidence and citations to appropriate authority; in addition and alternatively he has been warned repeatedly by this Court of the need to do so; and on the present record the tentative ruling is that this Court must find that his continued failure to do so is for the improper purpose of attempting to harass the L&B Trustee and needlessly increase the cost of litigation, and that the appropriate remedy is to strike his motion.

Likewise, the tentative ruling is that even if the motion is not struck the reply must be struck because it cites no authority or evidence and was filed so late.

(ii) Alternatively, the motion was not properly served

The tentative ruling is that Mr. Layfield was required to serve "all creditors" and other parties in interest with his motion, pursuant to Rule 2002(a)(2) (Fed. R. Bankr. P.). In seeking to compel the L&B Trustee to expend estate resources to attempt to reconstruct L&B records and file tax returns or do other acts, contrary to the business judgment of the L&B Trustee, Mr. Layfield is proposing a extraordinary "use" of property of the bankruptcy estate within the meaning of that rule.

Alternatively, the tentative ruling is that under Rule 9007 and 9013(b), all creditors and parties in interest must be served. In addition, basic notions of due process require that all creditors and parties in interest be informed of a request for an order compelling the bankruptcy estate to use resources (potentially very substantial resources) to perform acts that might be of little or no benefit to the estate and creditors, and might even be a detriment (by wedding the estate to a position as to historical facts that might not be true).

In addition, Mr. Layfield's proof of service is inadequate for the reasons noted in part "(1)(b)" of this tentative ruling.

For all of these reasons, the tentative ruling is that all creditors and parties in interest should have been served and that there is no proof of any such service. That is an alternative basis on which the motion must be

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denied.

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(iii) Alternatively, Mr. Layfield has not established that he has standing or is the real party in interest

Mr. Layfield's last-minute Reply (L&B dkt. 453) fails to address the L&B Trustee's argument (L&B dkt.452, p.8:1-17) that he lacks standing. The tentative ruling is that he has forfeited any contrary argument.

Alternatively, even if contrary arguments are not forfeited, the tentative ruling is that, on the present record, there is *prima facie* evidence that Mr. Layfield lacks standing and is not the real party in interest, and Mr. Layfield has not rebutted that evidence. Of course, this Court recognizes that failure to file tax returns or other documents can give rise to penalties or other liabilities. But whatever tax returns were or were not filed during Mr. Layfield's tenure with L&B are matters of historical fact. He has not shown how the trustees' non-filing or delayed filing of tax returns (or any other acts that he seeks) would affect him in any way that would give him standing.

(iv) Alternatively, the motion must be denied on the merits

The tentative ruling is that it is appropriate for this Court to defer to the L&B Trustee's reasonable business judgment as to whether and how to attempt to reconstruct L&B's records, when and how to prepare and file tax returns, and other matters. The Trustee's opposition papers set forth more than adequate grounds for his exercise of that business judgment. See L&B dkt.452, pp.8:17-10:5. See *generally In re Pomona Valley Med. Group, Inc.*, 476 F.3d 665, 670 (9th Cir. 2006) ("courts are no more equipped to make subjective business decisions for insolvent business than they are for solvent businesses, so we have no difficulty concluding that its formulation in corporate litigation is also appropriate here") (citation omitted).

Proposed order: The L&B Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(e) Pachulski v. Young et al., Adv. Case No. 2:18-ap-01233-NB ("Preference Adv."), status conference

Continue to 12/10/19 at 2:00 p.m., at the parties' request (adv. dkt. 29), with a *brief* status report due 11/26/19.

(f) Mr. Layfield's motion for relief from automatic stay ("R/S Motion," Lay-Invol dkt. 222), the opposition papers filed by Wellgen Standard, LLC ("Wellgen") (Lay-Invol dkt. 248) and the Chapter 7 Trustee (Lay-Invol dkt.

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249), and Mr. Layfield's reply (Lay-Invol dkt.259, filed 9/9/19 at 3:05 p.m.)

(i) Striking the motion is an appropriate remedy for Mr. Layfield's use of these proceedings for improper purposes

Wellgen requests that this Court sanction Mr. Layfield by awarding attorney fees. See Lay-Invol dkt.248, p.5:5-15. A request for an award of attorney fees must be made by separate motion, at least if it is made pursuant to Rule 9011 (Fed. R. Bankr. P.). See *generally* Sanctions Table of Judge Bason, available at www.cacb.uscourts.gov under "Judges"/"Bason"/"Instructions" (the "Sanctions Table"). Nor has Wellgen set forth the precise legal basis, under Rule 9011 or any other grounds, for such an award.

Nevertheless, Wellgen's objection to Mr. Layfield's abusive tactics is well taken, and as set forth in part "(1)(d)(i)" of this tentative ruling, this Court has previously warned Mr. Layfield that he must file proper papers or he may be subject to consequences. As set forth above, the tentative findings of fact are that Mr. Layfield is using these proceedings for improper purposes, and the tentative ruling is that it is appropriate to strike the R/S Motion. Alternatively, it is appropriate to strike Mr. Layfield's last minute reply.

(ii) Alternatively, Mr. Layfield lacks standing

The tentative ruling is that, as set forth in the opposition papers, Mr. Layfield, as the debtor in an apparently insolvent chapter 7 estate, lacks standing to seek the relief in the R/S Motion. Lay-Invol dkt.248 at pp.2:26-4:3, dkt. 249 at pp.2:18-3:3. In addition, the tentative ruling is that Mr. Layfield is not the real party in interest: the Lay-Invol Trustee is.

(iii) Alternatively, service is defective

Mr. Layfield's proof of service (Lay-Invol dkt.243, p.3) is defective for the reasons noted in part "(1)(b)" of this tentative ruling.

(iv) Alternatively, the R/S Motion must be denied on the merits

As Wellgen points out, this Court has already ruled that, regardless whether Mr. Layfield was or was not properly served, Wellgen's claim against him is not subject to any *bona fide* dispute. See Lay-Invol dkt.162 (incorporating dkt.149 by reference), dkt.248 p.2:18-25. The Lay-Invol Chapter 7 Trustee agrees. See Lay-Invol dkt. 249.

(g) Mr. Layfield's motion for entry of an order finding the IRS in willful violation of the automatic stay (dkt. 239), Chapter 7 Trustee's opposition (dkt. 252)

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2:00 PM

CONT...

Layfield & Barrett, APC

Chapter 11

(i) The motion must be denied for lack of proper service on the

IRS

There is no proof of service evidencing service on the IRS at the address required by the Court's manual, available at cacb.uscourts.gov, Appendix D Section 2.1. The tentative ruling is to deny the motion on that ground.

To the extent that the motion seeks discovery, the tentative ruling is that without service on the IRS it is inappropriate to address that issue.

(ii) Alternatively, the tentative ruling is that the motion should be stricken because it is being used for improper purposes

Mr. Layfield asserts that the IRS has violated the automatic stay, but he cites very little legal authority and the only evidence to support Debtor's various factual allegations is one (inadequate) exhibit. That prejudices anyone who seeks to understand whether to support or oppose the motion, and it is particularly prejudicial to the IRS or anyone else who might seek to oppose the motion, because any such party must research and set forth all the legal standards that Mr. Layfield should have addressed, before addressing why those standards have or have not been met.

In other words, the IRS has to do the research that Mr. Layfield should have done to set forth the legal standards, then the IRS has to surmise what evidence Mr. Layfield might present to meet each element of his claims, and then the IRS has to present contrary arguments and evidence. That is using the motion to harass the IRS and to needlessly increase the costs of litigation for other parties.

(iii) Alternatively, on the merits, the motion must be denied

One of the essential elements for any claim for violation of the automatic stay is that there must be actual knowledge of the bankruptcy case. See *generally* Sanctions Table. It appears from the record before this Court that Debtor never complied with his obligation to file a creditor matrix, nor is there any other evidence of which this Court is aware that the IRS has had notice of this bankruptcy case.

As to the request for an order directing discovery, Mr. Layfield fails to cite any legal authority or any evidence to support his request. Nor has he explained how any non-filing of tax returns violates the automatic stay or any other statute or legal duty.

Proposed order: The Chapter 7 Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR

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CONT... Layfield & Barrett, APC
9021-1(b)(1)(B).

Chapter 11

(h) Mr. Layfield's motion to disqualify Chapter 7 Trustee (Lay-Invol dkt. 241), Chapter 7 Trustee's opposition (Lay-Invol dkt. 251), creditor Mr. Rodney Pimentel's joinder (Lay-Invol dkt. 253), and Mr. Layfield's reply (Lay-Invol dkt.260)

Deny for lack of service on all creditors and parties in interest; for lack of standing/real party in interest; for the reasons stated in the opposition papers; and for the reasons stated in this Court's ruling on Mr. Layfield's prior Motion to Dismiss (Lay-Invol dkt. 207), reproduced below, and modified as shown in brackets:

... regarding Mr. Layfield's allegations about some sort of perceived conflict involving the Chapter 7 Trustee, his arguments are difficult to follow and both procedurally and substantively deficient. This Court has already rejected Mr. Layfield's challenges to the appointment of the Trustee. See [Lay-Invol] dkt. 149, 183. To the extent that Mr. Layfield raises new allegations, there is no explanation why they were not raised before; there is no citation to the standards for reconsideration (e.g., under Rule 9024, Fed.R.Bankr.P.) nor any attempt to meet those standards; and his vague allegations are conclusory statements of opinion and legal conclusions without supporting facts. See [Lay-Invol] dkt. 207, p.4:11-18 & pp.11:21-12:5 (referencing *In re Adelman*, Case No. 2:15-bk-15952-RK). [See also Lay-Invol dkt. 241 at PDF pp.5:23-6:12 & pp.11:19-12:6 (referencing *In re Adelman*)]. In addition, this Court has reviewed the docket in the *Adelman* bankruptcy case, including the bankruptcy schedules (*id.* dkt.84), and is unable to discern any disqualifying facts. See 11 U.S.C. 327(c)(attorney's representation of creditor does not by itself disqualify such person from representing trustee).

Proposed order: The Chapter 7 Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B)

(i) Debtor's omnibus motion to stay bankruptcy proceeding and all related adversary proceedings (dkt. 224), and Chapter 7 Trustee's opposition

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CONT... Layfield & Barrett, APC
(dkt. 250)

Chapter 11

Deny for lack of service on all creditors and parties in interest, based on the same analysis stated above; and for the reasons stated in the opposition papers.

Proposed order: The Chapter 7 Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B)

(j) *Pimentel v. Layfield et al.*, Adv. Case No. 2:19-ap-01069-NB: Mr. Layfield's motion to dismiss first amended complaint (adv. dkt. 26), Plaintiff's opposition (adv. dkt. 28), and Mr. Layfield's reply (adv.dkt.29)

This Court has not prepared a tentative ruling on this matter.

(k) *Pachulski v. Layfield et al.*, Adv. Case. No. 2:19-ap-01071-NB: Mr. Layfield's motion for judgment on the pleadings (adv. dkt. 6), opposition (adv.dkt.8), and Mr. Layfield's reply (adv.dkt.10)

This Court has not prepared a tentative ruling on this matter.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences (L&B and Lay-Invol): continue to 10/15/19 at 2:00 p.m., with a *brief* status report due 10/8/19.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 9/10/19

This Court anticipates posting a tentative ruling at a later time.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Layfield & Barrett, APC

Chapter 11

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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Hearing Room 1545

2:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:18-01233 Pachulski v. Young et al

#5.00 Cont'd Status Conference re: Complaint for Avoidance
and Recovery of Preferential Transfers
fr. 11/27/18, 4/30/19, 06/04/19

Docket 10

***** VACATED *** REASON: Continue to 12/10/19 at 11:00 a.m. per
stipulation (adv.dkt. 29)**

Tentative Ruling:

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Jeffery Young

Represented By
Gary R Wallace

Conal Doyle

Represented By
M. Jonathan Hayes

Wilshire Law Firm, PLC

Represented By
M. Jonathan Hayes

Babak Bobby Saadian

Represented By
M. Jonathan Hayes

Neifert Khorshid

Represented By
M. Jonathan Hayes

Plaintiff(s):

Richard M Pachulski

Represented By
James KT Hunter

Trustee(s):

Richard Pachulski (TR)

Represented By

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CONT... Layfield & Barrett, APC

Malhar S Pagay
James KT Hunter

Chapter 11

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#6.00 Hrg re: Motion for relief from stay [NA]

(Advocate Capital v. Phillip Layfield)

Docket 222

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 4, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Movant(s):

Philip James Layfield

Represented By
Anthony M Solis
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#7.00 Hrg re: Motion For entry of an order finding Department of Treasury (Internal Revenue Service) in willful violation of the automatic stay and assessing sanctions including actual and punitive damages

Docket 239

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 4, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#8.00 Hrg re: Debtor's Motion to disqualify chapter 7 trustee

Docket 241

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 4, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#9.00 Hrg re: Debtor's omnibus Motion to stay bankruptcy proceeding and all related adversary proceedings

Docket 224

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 4, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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Tuesday, September 10, 2019

Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#10.00 Hrg re: Motion to Dismiss 1st amended complaint
pursuant to rule 7012 and Rule 12(B)(6) of the FRCP

Docket 26

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 4, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
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Tuesday, September 10, 2019

Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01071 Richard M. Pachulski, Chapter 11 Trustee of the Ba v. Layfield

#11.00 Hrg re: Philip Layfield's Motion for judgment on the pleadings

Docket 6

Tentative Ruling:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 4, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip James Layfield

Pro Se

Plaintiff(s):

Richard M. Pachulski, Chapter 11

Represented By
James KT Hunter

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
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Friday, September 13, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Hrg re: Motion for order authorizing debtor to employ
Marshall Stevens, Inc. as a professional Appraiser

Docket 939

Tentative Ruling:

Grant. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
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Friday, September 13, 2019

Hearing Room 1545

2:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#2.00 Hrg re: Emergency motion to Continue Apex Realty, Inc. and BRG Adams, LLC's Motion for Relief from Automatic Stay Under 11 U.S.C. Sec. 362 (Action In Non Bankruptcy Forum) [LBR 9075-1], Presently Set for October 1, 2019

Docket 40

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether this Court should grant in part and continue in part the underlying motion for relief from the automatic stay, to permit finalization of arbitrator's interim award, but not a petition to the Superior Court to confirm the final arbitration award, and meanwhile order the parties to mandatory mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

**United States Bankruptcy Court
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Tuesday, September 17, 2019

Hearing Room 1545

10:00 AM

2:18-19352 Deborah Anne Fostrey

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

US BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 33

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Deborah Anne Fostrey

Represented By
Thomas B Ure

Movant(s):

US Bank National Association, as

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

10:00 AM

2:18-25030 Mark Mercado

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

MEB LOAN TRUST
vs
DEBTOR

Docket 64

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 68), and (c) whether or not Debtor's loan may be modified.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Mark Mercado

Represented By
Teresa Straley

Movant(s):

MEB Loan Trust

Represented By
Daniel K Fujimoto
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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CONT... Mark Mercado

Chapter 13

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Tuesday, September 17, 2019

Hearing Room 1545

10:00 AM

2:16-24095 Jose Luis Lopez and Yolanda Castro

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 42

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Hearing Room 1545

10:00 AM

CONT... Jose Luis Lopez and Yolanda Castro

Chapter 13

Party Information

Debtor(s):

Jose Luis Lopez

Represented By
Matthew D. Resnik

Joint Debtor(s):

Yolanda Castro

Represented By
Matthew D. Resnik

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

10:00 AM

2:18-16436 Blanca Estela Rubalcava

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

BAYVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 66

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 68).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Blanca Estela Rubalcava

Represented By
Lionel E Giron

Movant(s):

Bayview Loan Servicing, LLC, as

Represented By
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

10:00 AM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#5.00 Hrg re: Motion for relief from stay [RP]

GOLDMAN SACHS BANK USA
vs
DEBTOR

Docket 25

Tentative Ruling:

Revised Tentative Ruling for 9/17/19:

Grant in part and deny in part as set forth below. In addition, the tentative ruling is to continue this hearing to 10/29/19 at 10:00 a.m. to assess Debtor's ongoing progress at that time. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Section 362(d)(1)

In its Memorandum of Points and Authorities (dkt. 28) in support of its motion for relief from the automatic stay (the "R/S Motion," dkt. 25), Movant asserts that there is "cause" for relief from the automatic stay (11 U.S.C. 362(d)(1)) on two alternative grounds: (a) allegedly it is not protected by an adequate equity cushion and (b) allegedly Debtor's bankruptcy case was commenced in bad faith (dkt. 28, p.8:3-5).

(a) Adequate protection

Movant asserts that its equity cushion is 7% (dkt. 28 at PDF p.13), and it cites authority that typically a 10% to 20% equity cushion is considered appropriate. Movant acknowledges that it has received two post-petition adequate protection payments of \$16,683.00 each (dkt. 31 at PDF p.6), but Movant asserts that these are not sufficient (dkt. 32 at PDF p.5), apparently because they do not cover Movant's claimed default interest.

The tentative ruling is that Movant is adequately protected by a combination of (i) the equity cushion, (ii) adequate protection payments at the

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10:00 AM

CONT... **South Street Brentwood, LLC**

Chapter 11

non-default rate, and (iii) Debtor's past and ongoing progress in moving the property toward approval of permits (and then a construction loan and full development of the property).

(b) Bad faith, or not

Movant asserts that Debtor's bankruptcy case was filed in bad faith. Movant cites *In re Can-Alta Props., Ltd.*, 87 B.R. 89, 92 (9th Cir. BAP 1988) for a list of factors courts consider in determining bad faith as one type of "cause" under 11 U.S.C. 362(d)(1) to grant relief from the automatic stay. Dkt. 32, p.6. Movant asserts that the bankruptcy court's finding of bad faith in that case was reversed by the Bankruptcy Appellate Panel ("BAP") "primarily because the Property had over \$1.0 million in equity." Dkt. 32, p.6:8-22.

The tentative ruling is that, although the equity in the property was certainly a major factor, it was just one of the following factors cited by the BAP in ruling that the record, taken as a whole, did not support a conclusion of bad faith: the debtor therein was not formed on the eve of bankruptcy, that debtor had approximately one million dollars in equity, the bankruptcy petition was filed six months prior to the order lifting the stay so it was not surprising that that debtor had received only one offer to purchase the property, and relief from stay was granted prior to the hearing on that debtor's plan so that debtor had no opportunity to amend the plan consistent with the bankruptcy court's concerns and no opportunity to present evidence of confirmability or feasibility. *Can-Alta*, 87 B.R. 89, 92.

The tentative ruling is that in this case the record as a whole does not support a conclusion of bad faith. As explained below, the tentative ruling is that this is not a single asset real estate case so, although Debtor needs to show progress soon, the deadlines are not quite as hard-and-fast. Movant's R/S Motion was filed 8/23/19, less than two months after Debtor filed for bankruptcy. Given that the property has a value of at least \$3.2 million, and may be on the eve of plan approval and development, it is not surprising that Debtor has received no acceptable offers to purchase the property - that is an awkward stage at which to attempt to sell development property. The fact that the bankruptcy case was commenced in response to Movant's foreclosure sale is neutral, given that the goals of the Bankruptcy Code include not just adequate protection of secured creditors but also maximizing the possible return to unsecured creditors and preserving bankrupt businesses and jobs, and this is Debtor's first bankruptcy filing. While it is

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CONT... **South Street Brentwood, LLC**

Chapter 11

true that (at a \$3.2 million valuation) Debtor has no equity in the property, after taking into account debt junior to Movant's claim, Debtor has alleged that now that plans have been revised and the development is in its current stage the property is worth \$4 million (dkt. 31, p.7:1-3 *and* Hanson Decl., p.10:21-22). Although the opinion of Debtor's principal certainly is not the strongest evidence of value, owners are deemed to be competent to opine as to value, and there is no contrary evidence presented. Lastly, Debtor has shown sufficient progress, at this early stage of the case, towards reorganization. Debtor has employed an architect to design the home for the property, and in the process of seeking the necessary permits.

(2) Section 362(d)(2)

The tentative ruling is that neither element of 11 U.S.C. 362(d)(2) is satisfied. First, based on an assumed property value of \$3.2 million, Movant asserts that Debtor has no equity in the property (dkt. 25, p.8). But, as noted above, there is some evidence that the property is worth \$4 million. The tentative ruling is that Debtor's evidence is sufficient under 11 U.S.C. 362(d)(2)(A).

Second, Movant argues that the property is not necessary for an effective reorganization. Debtor provides evidence of some progress toward a reorganization, including a copy of the new floor plans, a delcaration from its principal Sam Hanson, and the application for the required permits. Dkt. 31, pp.10:23-11:5 *and* Ex.2 & 3. The tentative ruling is that this is sufficient, at the present time, under 11 U.S.C. 362(d)(2)(B).

(3) Section 362(d)(3), and Movant's request for a finding that Debtor's case constitutes a single asset real estate ("SAR") case

Fairly short deadlines apply, under 11 U.S.C. 362(d)(3), with respect to a stay of an act against "single asset real estate" ("SARE") as defined in 11 U.S.C. 101(51A):

The term "single asset real estate" means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor who is not a family farmer and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto. (11 U.S.C.

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101(51A), emphasis added)

Movant cites several cases for the proposition that vacant raw land does not fall within the emphasized language (the "Residential Exception"). Dkt. 32, pp.9:7-10:7. The tentative ruling is that the cited cases are either distinguishable or actually support the opposite conclusion on the facts presented.

The first case, *In re Kachina Village, LLC*, 538 B.R. 124 (Bankr. D.N.M. 2015), admittedly held that the Residential Exception would not apply to raw land, at least in the circumstances of that case; but that case involved property zoned for mixed use. *Id.* at 126. That debtor's former intention was to build four or more residential units, and at the time of the hearing, that debtor's current intentions were to do than in addition to building a commercial building. *Id.* at 128. The Court opined that

A good example of raw land that might come within the Residential Exception would be between one and three lots, zoned strictly for residential development, upon which the debtor intended to build from one to three houses. In such a situation it might [] be fair to exclude the property from the Code's SARE provisions. [*Id.*]

In the present case, Debtor's stated intentions were always to build a personal residence on the property, and Movant has not provided any evidence to do contrary. Moreover, there is no evidence that Debtor's property is zoned for anything other than residential development.

The second decision, *In re Mountain Edge LLC*, 2012 Bankr. LEXIS 4784 (Bankr. D.N.M. 2012), held that the debtor's case was a SARE case. 2012 Bankr. LEXIS 4784 at *12. But that decision is factually distinguishable because the debtor owned 24 residential lots and therefore could not qualify for the Residential Exception. *Id.* at *2.

The last case, *In re Kkemko, Inc.*, 181 B.R. 47 (Bankr. S.D. Ohio 1995), held that the debtor's case was not a SARE case. 181 B.R. 47 at 51. The debtor's property consisted of a marina that moored, stored, repaired and winterized boats, provided showers and a pool, and sold gas, among other activities. *Id.* at 51. Therefore, this case is factually distinguishable because that debtor could not have qualified for the Residential Exception.

The tentative ruling is to find and conclude that this is not a SARE case.

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(4) Movant's request for deadlines

Movant requests in the alternative (dkt. 32, p.10:11-14) that this Court set a deadline of 10/24/19 for Debtor to obtain construction permits and a deadline of 11/15/19 to pay its claim in full. The tentative ruling is not to set such hard-and-fast deadlines at this time, but instead to continue this hearing and monitor Debtor's progress as this case moves forward.

(5) Conclusion

The tentative ruling is that Movant has not established sufficient grounds for relief from the automatic stay on the present record. But the tentative ruling is to direct Debtor to continue making adequate protection payments of \$16,683.33 per month, using the typical "stay-current" form of adequate protection order ("APO") (14 days' notice of default, maximum of three opportunities to cure), and to continue this hearing to the date set forth at the start of this tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

Appearances required. This Court anticipates posting a tentative ruling at a later time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... South Street Brentwood, LLC

Chapter 11

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

Movant(s):

Goldman Sachs Bank USA

Represented By
Daniel H Slate

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Hearing Room 1545

10:00 AM

2:18-24137 Toni Leigh Rose

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK TRUST COMPANY
AMERICAS
VS
DEBTOR

Docket 31

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Toni Leigh Rose

Represented By
Steven A Alpert

Movant(s):

DEUTSCHE BANK TRUST

Represented By
Arnold L Graff
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-19113 Juan Roberto Olivarez

Chapter 13

#7.00 Hrg re: Motion for relief from stay [UD]

CHRISTOPHER M. KINSLING
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Docket entries for Reina Elizabeth Gonzalez bankruptcy (2:19-bk-15640-NB); Debtor's notice of conversion to chapter 7 (dkt.13, 14).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise

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CONT...

Juan Roberto Olivarez

Chapter 13

ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Juan Roberto Olivarez

Pro Se

Movant(s):

Christopher M. Kinsling

Represented By
Joseph Cruz

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CONT... Juan Roberto Olivarez

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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10:00 AM

2:19-19815 Francis Jean Toliver

Chapter 13

#8.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Francis Jean Toliver Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Francis Jean Toliver

Represented By
Axel H Richter

Movant(s):

Francis Jean Toliver

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

2:19-19674 Angela Marie Polizzi

Chapter 13

#9.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 11

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... **Angela Marie Polizzi** **Chapter 13**

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angela Marie Polizzi

Represented By
Matthew D. Resnik

Movant(s):

Angela Marie Polizzi

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-16781 Walter Donzel Duarte

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/9/19, 7/30/19

MILESTONE FINANCIAL, LLC
vs
DEBTOR

Docket 9

Tentative Ruling:

Tentative Ruling for 9/17/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether there are any remaining pending issues now that Debtor's plan has been confirmed (dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required. The parties should be prepared to address whether Debtor is current on chapter 13 plan payments and adequate protection payments. See Order (dkt. 25).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Walter Donzel Duarte

Chapter 13

Tentative Ruling for 7/9/19:

Grant as provided below, primarily because (1) Debtor has not filed contribution declarations, with evidence of the contributors' willingness and ability to make sufficient contributions to support a feasible chapter 13 plan; (2) Debtor's hope of a refinance appears unrealistic; and (3) given the lack of apparent feasibility of this chapter 13 case, Movant has made a *prima facie* showing that Debtor and his mother have engaged in nothing more than a "scheme" to "delay" and "hinder" Movant's exercise of its remedies, involving multiple (two) bankruptcies, and alternatively involving a transfer in violation of the loan documents, and therefore "*in rem*" relief is appropriate. See dkt. 9, 18, 21. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Late-filed opposition

The tentative ruling is to excuse the lateness of the opposition papers because it is understandable for Debtor and his mother, having only recently retained present counsel, to need additional time to respond. See dkt. 19.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within

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CONT...

Walter Donzel Duarte

Chapter 13

two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Walter Donzel Duarte

Represented By
William J Smyth
Stephen S Smyth

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CONT... Walter Donzel Duarte

Chapter 13

Movant(s):

Milestone Financial, LLC

Represented By
Harris L Cohen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-19093 Rodney Albert Gabriel, Jr

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/11/19, 7/2/19; 08/06/19

NATIONAL MORTGAGE, LLC
vs
DEBTOR

Docket 62

Tentative Ruling:

Tentative Ruling for 9/17/19:

Appearances required. At the previous hearing, Movant informed this Court that it had provided the Chapter 13 Trustee with a payoff statement and that the Chapter 13 Trustee required further accounting. There is no tentative ruling, but the parties should be prepared to address (a) the status of that further accounting, (b) whether the alleged arrears have been brought current and/or (c) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

Appearances required. At the previous hearing, the parties noted that another of Debtor's properties had been sold and that Movant's debt may be paid in full out of the proceeds. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

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CONT... **Rodney Albert Gabriel, Jr**

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/2/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Rodney Albert Gabriel, Jr

Chapter 13

Debtor(s):

Rodney Albert Gabriel Jr

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

10:00 AM

2:17-21407 Jose G Garcia and Maria E. Garcia

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 05/21/19, 7/9/19; 08/06/19

BAYVIEW LOAN SERVICING, LLC
VS
DEBTOR

Docket 49

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Jose G Garcia

Represented By
Julie J Villalobos

Joint Debtor(s):

Maria E. Garcia

Represented By
Julie J Villalobos

Movant(s):

Bayview Loan Servicing, LLC as

Represented By
Erin M McCartney
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 17, 2019

Hearing Room 1545

11:00 AM

2:19-12152 Vera Pharma Siegert

Chapter 7

Adv#: 2:19-01101 Vaquerano et al v. Siegert et al

#1.00 Cont'd hrg re: Amended Motion for Default Judgment
fr. 7/30/19

Docket 12

Tentative Ruling:

Tentative Ruling for 9/17/19:

Please see the tentative ruling in the status conference (calendar no. 2, 9/17/19 at 11:00 a.m.).

Tentative Ruling for 7/30/19:

Please see tentative ruling in status conference (calendar no. 12, 7/30/19 at 11:00 a.m.).

Party Information

Debtor(s):

Vera Pharma Siegert

Represented By
Christopher S Reyes

Defendant(s):

Norma Pharma Siegert

Pro Se

Eklin Ochoa Siegert

Pro Se

Joint Debtor(s):

Elkin Ochoa Siegert SR

Represented By
Christopher S Reyes

Movant(s):

Maria Vaquerano

Represented By
Shalem Shem-Tov

Jimmy Vaquerano

Represented By
Shalem Shem-Tov

**United States Bankruptcy Court
Central District of California
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CONT... Vera Pharma Siegert

Chapter 7

Norma Rivas

Represented By
Shalem Shem-Tov

Plaintiff(s):

Maria Vaquerano

Represented By
Shalem Shem-Tov

Jimmy Vaquerano

Represented By
Shalem Shem-Tov

Norma Rivas

Represented By
Shalem Shem-Tov

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

11:00 AM

2:19-12152 Vera Pharma Siegert

Chapter 7

Adv#: 2:19-01101 Vaquerano et al v. Siegert et al

#2.00 Cont'd status conference: Complaint to determine the dischargeability of a debt pursuant to 11 U.S.C. section 523(a)(2)(A) and 523(a)(6) fr. 6/11/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/17/19:

Appearances required.

Current Issues

Pursuant to this Court's order continuing the hearing on the Motion for Default Judgment (dkt. 15), this Court will address whether to adhere to the tentative ruling for 7/30/19 (reproduced below) or whether there is sufficient cause to set a schedule for Defendants to file a motion for relief from the Clerk's default, and any other procedural issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances are not required.

Current Issues

(a) Request for Judicial Notice (dkt. 13)

Grant.

(b) Motion for Default Judgment (dkt. 12).

The tentative ruling is to grant the Motion for Default Judgment and

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11:00 AM

CONT... Vera Pharma Siegert

Chapter 7

find that Plaintiff's state court judgment of \$883,858.25, plus post-judgment interest and costs, is not dischargeable under 11 U.S.C. 523(a)(2)(A) and 11 U.S.C. 523(a)(6) as to Debtors. The motion does not address attorney fees, and the tentative ruling is to deny without prejudice any request for attorney fees.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/11/19:

Continue this status conference to 7/30/19 at 11:00 a.m., to provide Plaintiffs with sufficient time to file a motion for a default judgment. See adv. dkt. 5 through 8. Appearances are not required on 6/6/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Vera Pharma Siegert

Represented By
Christopher S Reyes

Defendant(s):

Norma Pharma Siegert

Pro Se

Eklin Ochoa Siegert

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

11:00 AM

CONT... Vera Pharma Siegert

Chapter 7

Joint Debtor(s):

Elkin Ochoa Siegert SR

Represented By
Christopher S Reyes

Plaintiff(s):

Maria Vaquerano

Represented By
Shalem Shem-Tov

Jimmy Vaquerano

Represented By
Shalem Shem-Tov

Norma Rivas

Represented By
Shalem Shem-Tov

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

#1.00 Hrg re: Motion for entry of an order further extending the debtor's exclusivity periods during which the debtor may file a plan and solicit acceptances thereof

Docket 195

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2, 9/17/19 at 1:00 p.m.)

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Movant(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 17, 2019

Hearing Room 1545

1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19, 5/14/19, 6/11/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/17/19:

Appearances are not required.

(1) Current Issues

(a) Debtor's motion to further extend exclusivity period (dkt. 195)

Grant, extending Debtor's deadline to 12/21/19 to file the plan, and to 2/19/20 to gain acceptance of the plan.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19, dkt. 82).

(b) Plan/Disclosure Statement*: See above re deadlines. Debtor must use the forms required by Judge Bason, unless excused (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/24/19 at 1:00 p.m. (to be concurrent with other matters in this case), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

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Judge Neil Bason, Presiding
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1:00 PM

CONT... Koi Design LLC

Chapter 11

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 17, 2019

Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#3.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Employing Professional (LBR 2014-1): Law Offices of Lionel E. Giron as General Insolvency Counsel fr. 8/20/19

Docket 50

Tentative Ruling:

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the status conference (calendar no. 5, 9/17/19 at 1:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 11, 8/20/19 at 1:00 p.m.)

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

Movant(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

**United States Bankruptcy Court
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CONT... Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

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Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#4.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115 fr. 8/20/19

Docket 53

Tentative Ruling:

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the status conference (calendar no. 5, 9/17/19 at 1:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 11, 8/20/19 at 1:00 p.m.)

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

Movant(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

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1:00 PM

CONT... Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

**United States Bankruptcy Court
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Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#5.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19, 8/20/19

Docket 42

Tentative Ruling:

Tentative Ruling for 9/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed orders: Debtor is directed to lodge proposed orders on the following matters via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(1) Current issues

(a) Amended budget motion (dkt. 72)
Grant.

(b) Employment application, Law Offices of Lionel E. Giron (dkt. 50), United States Trustee's ("UST") opposition (dkt. 61), Mr. Giron's reply (dkt. 65), Mr. Giron's supplemental declaration (dkt. 73), and the UST's reply (dkt.76)

Deny. At the last hearing this Court set a deadline of 9/3/19 for supplemental declarations of Mr. Giron and Mr. Egbase, and as of the date of this tentative ruling, only the former has been filed, and that is insufficient for the reasons stated at the hearing and in the UST's reply. See dkt. 73, 76.

The parties should be prepared to address how Debtors will transition to new counsel.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures

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CONT... **Angel Rodriguez Lara and Angelica Soto Calva** **Chapter 11**

at a later time).

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By

Lionel E Giron

Joanne P Sanchez

Joint Debtor(s):

Angelica Soto Calva

Represented By

Lionel E Giron

Joanne P Sanchez

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

2:00 PM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19

Docket 5

Tentative Ruling:

Appearances required. The tentative ruling is that Debtor's third amended chapter 11 plan, as modified (dkt.107), cannot be confirmed, despite Debtor's supplemental briefing in support of that plan (dkt. 112). Because Debtor was unable to establish the feasibility of the version of that plan (dkt. 69) that was conditionally approved by order of this Court (dkt. 93), the parties should be prepared to address whether Debtor can and will propose alternative exit strategies, or if this case should be dismissed or converted.

Analysis

The tentative ruling is that (1) Debtor has not established that bankruptcy law preempts nonbankruptcy law regarding the notices and other procedures for a change in use of a mobilehome part;

(2) Debtor has not established that Cal. Gov. Code 65863.7(f) exempts Debtor from otherwise applicable requirements of California law or regulation, because that section by its terms requires that any closure or cessation of use of a mobilehome park must "result[] from the entry of an order for relief in bankruptcy" (emphasis added), and Debtor has not established that closure or cessation of use is the only bankruptcy option, as opposed to, for example, sale of the property as a mobilehome park under 11 U.S.C. 363; and therefore

(3) Debtor has not established that Carson Municipal Code 9128.21 conflicts with, and is preempted by, either the Bankruptcy Code or nonbankruptcy law.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

**United States Bankruptcy Court
Central District of California
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Tuesday, September 17, 2019

Hearing Room 1545

2:00 PM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#2.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 5/7/19, 05/21/19, 6/18/19, 7/30/19, 8/20/19

Docket 76

Tentative Ruling:

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the status conference (calendar no. 4, 9/17/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 7, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5, 7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman

**United States Bankruptcy Court
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2:00 PM

CONT... Jackies Cookie Connection LLC

Chapter 11

Michael S Kogan

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
Central District of California
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Tuesday, September 17, 2019

Hearing Room 1545

2:00 PM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#3.00 Cont'd hrg re: Motion for Order: (1) Approving Asset Purchase Agreement and Authorizing the Sale of Property Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. § 363(b) and (f); (2) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; (3) Approving the Form and Manner of Notice; and (4) Approving Buyer as Good Faith Purchaser Pursuant to 11 U.S.C. § 363(m) fr. 5/7/19, 05/21/19, 6/18/19, 7/30/19, 8/20/19

Docket 80

Tentative Ruling:

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the status conference (calendar no. 4, 9/17/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 7, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5, 7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

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2:00 PM

CONT... Jackies Cookie Connection LLC

Chapter 11

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

Movant(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

2:00 PM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019, 5/7/19, 05/21/19, 6/18/19, 7/30/19,
8/20/19

Docket 5

Tentative Ruling:

Tentative Ruling for 9/17/19:

Appearances required.

(1) Current issues

(a) Debtor's sale motion (the "Sale Motion," dkt. 80), "Haloossim" Brief (dkt. 128), Debtor's reply (dkt. 129), Galant declaration re assets (dkt. 130), sale notice (dkt.131), "Haloossim" bid (dkt.133), Restructuring Advisors LLC bid (dkt.134)

The tentative ruling is to conduct an auction at the hearing and approve a sale of the specified assets, free and clear of liens and other interests, including any successor liability, under 11 U.S.C. 363(b)&(f). Parties wishing a "good faith" finding (11 U.S.C. 363(m)) are referred to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "UST Motion", dkt. 76)

The parties should be prepared to address whether to grant the UST Motion and, if so, which remedy is in the best interests of creditors and the estate under 11 U.S.C. 1104 and 1112.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (not timely served but excused, dkt. 120)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 10/15/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Jackies Cookie Connection LLC

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 17, 2019

Hearing Room 1545

2:00 PM

2:17-22648 Checkmate King Co., LTD

Chapter 7

#5.00 Cont'd hrg re: Final Fee Application for Approval of Professional Compensation for Legal Services for Robert M Aronson fr. 05/21/19, 7/2/19

Docket 299

Tentative Ruling:

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 8, 9/17/19 at 2:00 p.m.).

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 13, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Party Information

Debtor(s):

Checkmate King Co., LTD Pro Se

Movant(s):

Checkmate King Co., LTD Pro Se

Trustee(s):

Wesley H Avery (TR) Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, September 17, 2019

Hearing Room 1545

2:00 PM

2:17-22648 Checkmate King Co., LTD

Chapter 7

#6.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19, 5/7/19, 05/21/19,
7/2/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 8, 9/17/19 at 2:00 p.m.).

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 13, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.4, 4/30/19 at 2:00 p.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

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2:00 PM

CONT... Checkmate King Co., LTD

Chapter 7

Tentative Ruling for 3/26/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

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Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.

(c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written

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status report due 7/24/18.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 5/8/18:

Appearances required.

(1) Current issues.

(a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases

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and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?

(b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).

(c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on a final basis.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the

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U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

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(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Pro Se

Trustee(s):

Wesley H Avery (TR)

Pro Se

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#7.00 Cont'd hrg re: Final Fee Application for Approval of Professional Compensation for Legal Services Rendered and Reimbursement of Expenses Incurred by Debtor's Counsel, Nicholas W Gebelt
Period: 10/16/2017 to 4/30/2019
fr. 05/21/19, 7/2/19

Docket 431

Tentative Ruling:

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 8, 9/17/19 at 2:00 p.m.).

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 13, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 7/3/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

Movant(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt
Nicholas W Gebelt

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Nicholas W Gebelt

Akemi Sakurai

Represented By
Nicholas W Gebelt
Nicholas W Gebelt

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Timothy J Yoo
Carmela Pagay

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#8.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19, 5/7/19, 05/21/19,
7/2/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/17/19:

This Court anticipates filing a written tentative ruling at a later time.
Appearances required but telephonic appearances are encouraged if
advance arrangements are made (see www.cacb.uscourts.gov, "Judges,"
"Bason, N.", "Instructions/Procedures").

Tentative Ruling for 7/2/19:

Appearances are not required

(1) Current Issues

(a) Status of these cases

The following issues involve both of these related cases: *In re Yichiro and Akemi Sakurai* (Case No. 2:17-bk-22660-NB, filed 10/16/17) and the *Checkmate* ("Checkmate") (Case No. 2:17-bk-22648-NB, filed 10/16/17). On 6/13/19 these cases were converted to chapter 7. See Sakurai dkt. 465, Checkmate dkt. 329. The meetings of creditors are scheduled for 8/7/19 and 7/24/19, respectively.

(b) Final Fee Application for the estates' Counsel (Mr. Gebelt, Checkmate, dkt. 249, 250, 253, 255, 257, 258, 261, 264, 269, 299, 328; and Mr. Aronson's firm, Sakurai, dkt. 343, 346, 352, 355, 356, 363, 367, 376, 448, 454, 456, 464)

This Court will issue a decision disallowing a substantial portion of the requested fees, chiefly concerning negotiation and drafting of the first two versions of a proposed plan and proposed disclosure statement, for the

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reason set forth below. The parties should be prepared to address, however, whether the chapter 11 administrative expenses are likely to be paid at all, now that the cases have been converted to chapter 7, and therefore whether the fee issues are moot, or should be deferred.

(i) Background: Checkmate had \$4.5 million of receivables that appeared very likely on their face to be nearly worthless

Checkmate's bankruptcy schedules listed \$43,177.70 that were 90 days old or less, and over \$4.5 million that were over 90 days old. See Checkmate Schedule A/B (Checkmate dkt.1), line 11, at PDF p.11. In fact, these receivables were far older than 90 days: they were "incurred in the one to two-year period prepetition." Sakurai dkt. 464, p.6:24.

This Court takes judicial notice, from hundreds if not thousands of bankruptcy cases, that receivables over 90 days typically are worth a fraction of their face amount, and often are worthless. Debtors later acknowledged, in their Disclosure Statement, that one of the immediate causes of Checkmate's bankruptcy (in addition to an impending trial with the Fresco Parties) was "Checkmate Debtor's inability to collect the [Radiology] receivables." Sakurai dkt. 177, Ex.H, Attachment, p.11:11-14 (PDF p.32).

Nevertheless, Checkmate claimed to be confident of collection, principally because the accounts were backed up by security interests. On even a superficial review, there was cold comfort in any purported security interests. Almost all of the receivables were from a single party: Radiology Solutions Corp. ("Radiology"). Checkmate alleged that it had advanced funds to Radiology to purchase used medical equipment manufactured by Siemens, for resale in India and other markets, and Checkmate purportedly took back a security interest in that medical equipment.

But Checkmate had only the word of Radiology and its principal, Mr. Fower, that most of the equipment had ever been purchased. See Sakurai dkt. 177, Ex.H, Attachment, p.22:10-13 (PDF p.43) ("Debtors have made progress by confirming with Seimens that [Radiology] bought at least some of the equipment") (emphasis added). In addition, Checkmate had only their word that the equipment had not already been sold to overseas purchasers or otherwise disposed of.

Checkmate had only vague and incomplete reports from Radiology about the purported location of unsold equipment. See *id.* ("the location of that equipment is not known" and "Debtors hope to soon be able to gain

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access to a warehouse in Anaheim, California, where 15 of the [49] machines are supposed to be located, and warehouses in Houston and New York where another 6 of the machines" are supposed to be located).

Checkmate also had only sloppy documentation or perfection of the purported security interest - e.g., (A) it is unclear how enforceable any purported security interest would be, especially in India and other foreign locations; (B) Checkmate's invoices from Radiology did not cross-reference the security agreement; and (C) even at the outset, the identification and location of the equipment was incomplete. See adv. no. 2:18-ap-01062-NB, dkt. 12.

Despite all of these grounds for concern, Checkmate purported to be supremely confident that the Radiology receivables were collectible. Its bankruptcy schedules listed the portion of its receivables that were "doubtful or uncollectible accounts" as \$0. See Checkmate Schedule A/B (dkt.1), line 11, at PDF p.11.

That was either a delusion or an intentional fabrication. In any event, when Debtors' counsel eventually was able to inspect the collateral stored at one location, nine months after the petition date, they found almost nothing:

On June 21, 2018, ... an inspection of Checkmate's collateral occurred. At that time, Applicant learned for the first time that the equipment supposedly purchased by Radiology was largely gone. [Sakurai dkt. 464, p.9:13-16.]

In what should not have been a surprise to anyone, it "turned out" that Checkmate "only collect[ed] \$9,000 from Radiology." [Sakurai dkt. 464, p.6, n.2.]

The point, of course, is not that with "20/20 hindsight" the receivables were worth next to nothing. The point is that from the outset there was every reason to believe that the receivables would be worth next to nothing.

(ii) Counsel for the estates had a duty not to incur substantial fees based on Debtors' unsupported delusions or misrepresentations

It is one thing for a debtor's principals to be deluded about the likely value of the debtor's assets. It is another thing for counsel to incur many tens of thousands of dollars in fees premised on such fantasies.

But that is what counsel did. The Radiology receivables were central to the negotiation and drafting of an original and first amended plan, and an original and first amended disclosure statement. Those documents included

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a complicated arrangement by which the Fresco Parties would receive a junior security interest in certain real properties and improvements, and payments out of the Radiology receivables that would be partially subordinated to claims of other non-priority unsecured creditors. As explained in the Disclosure Statement:

The collection of the RS [Radiology Solutions] receivables is addressed throughout this [Disclosure Statement]. Checkmate believes that it can retrieve and sell 21 of 49 machines, located mostly in Anaheim, California, with some in Houston, Texas and New York, New York. ... Checkmate estimates that during the 6 months post-confirmation ... it will receive and sell enough equipment to recoup \$700,000. During the next 9 months ... it anticipates receiving \$600,000 and during the following 9 months after that ... another \$500,000. [In other words, \$1.8 million total.] These are general estimates based on Checkmate recovering many, but not all, of the machines serving as its collateral. [Sakurai dkt. 177, Ex.H, Attachment, p.10:8-17 (PDF p.31)].

At this time (4/17/18, when the initial Disclosure Statement was filed, approximately 6 months after the petition date), Checkmate boasted that the Radiology receivables were estimated to be worth "approximately \$1,000,000" more in chapter 11 than "if the case is converted to Chapter 7," because the Checkmate Debtor has made progress ... in locating the medical equipment" Sakurai dkt. 177, Ex.H, Attachment, p.10:23-25 (PDF p.31) (emphasis added). Of course, as noted above, the purported location of the equipment had not been verified. Three months later, when Debtors' counsel actually went to Anaheim to look at the collateral that purportedly was "locat[ed]" there, it turned out to be "largely gone." [Sakurai dkt. 464, p.9:13-16.]

Meanwhile, based on the foregoing highly speculative recovery of \$1.8 million, and before verifying the existence and value of the purported collateral, Debtors' counsel engaged in protracted negotiations with the Fresco Parties and Community Bank about the structure of the proposed plan. Debtors' counsel then drafted a Plan that promised to use the Radiology receivables in a fairly complex waterfall of distributions: first to pay attorney fees, then up to \$300,000 toward a schedule of payments to secured creditor Community Bank, then quarterly payments to non-priority unsecured creditors other than the Fresco Parties (Class 4A) until payment of 50% of

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such claims, and then pro-rata to the Fresco Parties (Class 4B) and to Class 4A (except in the event of liquidation). Sakurai dkt. 177, Ex.H, Attachment, p.5:-20 (PDF p.26 of 47) and p.8:8-20 (PDF p. 29).

All of this was completely wasted effort. So were the subsequent hearings, the next version of the plan and disclosure statement, and all the associated negotiations. These services were not "reasonably likely to benefit the debtor's estate" or "necessary" to the administration of the estate. Therefore they "shall not" be allowed. 11 U.S.C. 330(a)(4)(A)(ii).

The same conclusion is supported by other portions of the statute. Such a large amount of fees and services was not "necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of," the bankruptcy cases. 11 U.S.C. 330(a)(1)(3)(C). In addition, the large amount of time spent on such services is not "reasonable," or "commensurate with the complexity, importance, nature of the problem, issue, or task addressed." 11 U.S.C. 330(a)(3)(D).

In sum, the fees at issue are not "reasonable compensation for actual, necessary services" 11 U.S.C. 330(a)(1)(A).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases): 8/15/19 at 2:00 p.m. (no written status report required).

(d) Continued adversary proceeding status conference (*Radiology/Fower*): 10/15/19 at 2:00 p.m.

[TENTATIVE RULINGS FOR INTERIM HEARINGS OMITTED]

Revised Tentative Ruling for 1/15/19:

Appearances Required

(1) Current Issues

(a) Final Fee Application for Debtor's Counsel (*Checkmate*, dkt. 249, 250, 253, 255, 257, 258, 261, 264; and *Sakurai*, dkt. 343, 346, 352, 355, 356, 363, 367)

The applications seek \$350,846.10 (*Checkmate*) and \$118,796.75

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(Sakurai). This Court has allowed a total of \$300,000, and set this continued hearing to address the balance of \$169,642.85. See Interim Fee Orders (dkt. 261, Checkmate; dkt. 363, Sakurai).

The Fresco parties' objections note that this Court has on more than one occasion expressed grave concerns about whether these Debtors have adequately prosecuted these bankruptcy cases. Of course, this Court expects that counsel for the debtors would not in any way have participated in any attempts by these Debtors to mislead or obstruct creditors in these cases, but that is not the end of the inquiry.

On the one hand, when there are legitimate strategic or tactical reasons to chose among different courses of action, counsel for Debtors usually must act at their clients' direction, even if they might harbor some doubts about the efficacy of those choices. On the other hand, in addition to the ethical limits of what counsel may do at their clients' direction, counsel are only permitted "reasonable compensation for actual, necessary services" (11 U.S.C. 330(a)(1)(A) (emphasis added)), and in determining what compensation is reasonable this Court "shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including [among other things] whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, [these bankruptcy cases]."

In these cases there are open questions about (i) Debtors' own acts and omissions, and whether Debtors were or were not engaging in a lack of diligent prosecution of these cases or other misconduct, (ii) whether Debtors, if deposed or examined at trial on those issues, will or will not assert advice of counsel, and (iii) whether, regardless of the foregoing issues, counsel for Debtors can satisfy the above-referenced statutory requirements. For all of these reasons, the tentative ruling is that the Fresco parties must have a reasonable period of time in which to conduct discovery to investigate Debtors' apparent failures to prosecute these cases or other misconduct, and whether, in view of the results of any such discovery, the compensation sought by counsel for Debtors is for "necessary" services and is "reasonable" in dollar amount, given all of the facts and circumstances.

Meanwhile, although this Court recognizes that all interim compensation may be revisited in connection with any final award, the question is how much to award on an interim basis, and whether any disbursed funds must be held in trust. The tentative ruling is to award

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another \$35,000 to counsel for Debtors, to be allocated pro rata in proportion to their outstanding fee requests, without requiring any portion of those funds to be held in trust, but also without prejudice to allowance of a greater or lesser final award.

The parties should be prepared to address the schedule for discovery on the issues outlined above. The tentative ruling is that a five month period is appropriate.

Then, in connection with any final fee award, or at such other time as this Court may later determine, the Fresco parties' objections can be revisited with the benefit of both (i) any discovery and (ii) any subsequent developments. For example, any additional disclosures and/or recoveries in the Fower/Radiology litigation might shed light on whether Debtors' and their counsel's strategies and tactics in dealing with those parties were appropriate at the time they were made. (This Court emphasizes that any subsequent developments would be relevant only to the extent they shed light on what was reasonable at the time the legal services were rendered - not for purposes of "20/20 hindsight.")

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 3/26/19 at 2:00 p.m. (status report due 3/19/19).

*Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 8/14/18:
Appearances required.

(1) Current issues.

(a) Fresco Parties' Motion to Convert Cases (dkt. 199 & Checkmate 2:17-bk-22648-NB, dkt. 185). The tentative ruling is to grant Fresco's motions to convert the Checkmate and Sakurai cases to chapter 7 for the following reasons.

(i) Gross mismanagement. The tentative finding of fact is that the debtors have grossly mismanaged their estates such that cause exists under 1112(b)(4)(B) to convert their cases. These cases have been pending for nearly a year, since 10/16/17, only very belated and half-hearted investigation or collection activity against Radiology Solutions and Fower - either using legal enforcement or practical steps. For example, at hearings on 11/14/17 and 1/30/18, the debtors maintained their belief that they could recover 100% on the dated receiveables from Radiology Solutions, despite this Court's expressed concerns with the debtors' counsel regarding the apparent lack of collection activity based on Checkmate's failure to use the vast panoply of litigation tools available to them, including examinations under Rule 2004 (Fed. R. Bankr. P.), other discovery tools, remedies such as immediately seeking restraining orders and injunctions, and non-litigation approaches such as pressuring Radiology Solutions and Fower by reporting their defaults to Siemens or attempting to use pressure from other suppliers, customers, government regulators, or other persons. All of those avenues should have been explored vigorously, both prepetition and postpetition, and disclosed to parties in interest in these cases.

(ii) Other "cause." The debtors appear to have run through vast amounts of money to "purchase" equipment that does not exist, and yet as set forth above they have a very cavalier attitude toward attempting to engage in discovery or collection, while continuing to insist that they expected very substantial recoveries from those sources and/or from equipment (which turned out not to exist). The tentative finding of fact is that these circumstances show not just gross mismanagement but also that the debtors are hiding facts, or they are attempting to run out the clock on possible causes of action against them or transferees of their assets, or both.

(ii) The debtors' counter-argument about the best interests of

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creditors is not persuasive. The debtors argue that under their liquidation analysis (*Sakurai*, dkt. 240, PDF p. 14, *Checkmate*, dkt. 194, PDF p. 17) creditors will receive faster and better recoveries if the debtors are permitted to engage in a liquidation through chapter 11, rather than converting these cases to chapter 7. There are several problems with this argument.

First, this Court questions the debtors' projected recoveries in chapter 11. The debtors have been wildly inaccurate (or have intentionally hidden the truth) before, as set forth above. This Court has no faith in the Debtors to adequately disclose and maximize the value of their remaining assets, such as the house in Japan or purported interests in that house. Moreover, this Court is concerned about the debtor's management of whatever is recovered, such as what might happen to proceeds from the sale of real property. This Court recognizes that safeguards can be attempted; but safeguards can also be evaded, and the tentative ruling is that the simplest and best safeguard is to appoint a chapter 7 trustee.

Second, this Court questions the debtor's projected lack of substantial recoveries in chapter 7. The tentative ruling is that the Fresco Parties have the better arguments regarding the potential benefits to unsecured creditors in a chapter 7 case (perhaps as much as 80% or more).

Third, supposing for the sake of discussion that the debtors were accurate in their projected recoveries in a liquidating chapter 11 case, and their comparison with projected recoveries in a chapter 7 case, that is not the only consideration. This Court must consider the integrity of the bankruptcy system. Given the debtors' gross mismanagement and this Court's concerns about the debtors' conduct (as described above) it appears that the only adequate safeguard of the integrity of the bankruptcy system is to convert these cases to chapter 7.

(iii) Evidentiary Objections (*Sakurai*, dkt. 233, 252) & (*Checkmate* 2:17-bk-22648-NB, dkt. 200, 204). The tentative ruling is that the history of this case and this Court's own admonishments to the debtors provides ample support for conversion, so this Court need not resolve the parties' respective evidentiary objections.

(iv) Proposed Orders. The Fresco Parties are directed to lodge proposed orders via this Court's LOU system within 7 days of the hearing.

(b) Application to Employ KW Commercial Inland Empire (dkt. 197) and Neiman Realty (dkt. 206). If this Court adopts the tentative ruling set forth above, the tentative ruling is to continue these hearings to the date and time

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set forth below to allow time for the chapter 7 trustees to weigh in.

(c) RS/Fower Adversary Proceeding (2:18-ap-01602-NB). The tentative ruling is to continue the status conference to the date and time stated below.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: TBD based on the outcome of the Conversion Motions.

(c) Continued status conference: If this Court converts these cases to chapter 7, the tentative ruling is to continue the status conference in the *Sakurai* and *Checkmate* cases to 10/9/18 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

Trustee(s):

Rosendo Gonzalez (TR)

Represented By

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Timothy J Yoo
Carmela Pagay

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2:19-17733 Noah J Williams and Myrtis K Williams

Chapter 13

#1.00 Hrg re: Motion to avoid junior lien on principal residence with Real Time Resolutions, as Agent and Servicer for New Century Mortgage Corporation

Docket 20

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Noah J Williams

Represented By
Donny A Ekine

Joint Debtor(s):

Myrtis K Williams

Represented By
Donny A Ekine

Movant(s):

Myrtis K Williams

Represented By
Donny A Ekine

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Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-17733 Noah J Williams and Myrtis K Williams

Chapter 13

#2.00 Hrg re: Motion to avoid junior lien on principal residence
with Centero Group, Nexus Pointe, Ameriprise Services

Docket 21

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Noah J Williams

Represented By
Donny A Ekine

Joint Debtor(s):

Myrtis K Williams

Represented By
Donny A Ekine

Movant(s):

Myrtis K Williams

Represented By
Donny A Ekine

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16680 Alexander Karimi

Chapter 13

#3.00 Hrg re: Motion to avoid junior lien on principal residence
with Wells Fargo Bank, NA

Docket 29

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alexander Karimi

Represented By
Julie J Villalobos

Movant(s):

Alexander Karimi

Represented By
Julie J Villalobos

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-15410 Harry John Davis

Chapter 13

#4.00 Hrg re: Motion for order determining value of collateral
[11 U.S.C. section 506(a), FRBP 3012]

Docket 29

*** VACATED *** REASON: Resolved per stipulation (dkt. 37) and order
thereon

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Harry John Davis

Represented By
Kevin T Simon

Movant(s):

Harry John Davis

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-10339 Estela Toledo

Chapter 13

#5.00 Hrg re: Motion to vacate order Granting Motion to Avoid Lien and Order Granting Confirmation of Chapter 13 Plan

Docket 38

Tentative Ruling:

Deny for the reasons stated in Debtor's opposition (dkt. 45) and the additional reasons set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's Motion to Avoid Junior Lien (dkt. 19); Movant's Opposition (dkt.45); Debtor's reply (dkt.46).

Analysis:

Creditor Deutsche Bank Nat. Trust Co., as trustee ("Deutsche") seeks to vacate this Court's order (the "506 Order," dkt.25) granting Debtor's motion (the "506 Motion," dkt.19) to avoid Deutsche's junior lien. Deutsche argues (dkt.38, pp.2:19-3:6 & 4:10-14, and dkt.46 *passim*) that the loan was being serviced by Franklin Credit ("Frankin"), and that the 506 Motion was not served on Deutsche or Franklin so, allegedly, the 506 Order is void for lack of due process, or alternatively there is cause for relief under Rule 60(b) (Fed. R. Civ. P., incorporated by Rule 9024, Fed. R. Bankr. P.).

Deutsche asserts that Debtor was sent several notices of the transfer of the loan servicing to Franklin. But those notices were sent over six years before the 506 Motion was served: the notices are dated 2/28/12, 3/5/12 and 3/22/12, and the 506 Motion was served on 4/16/18. See dkt. 38, Ex.5-7, at PDF pp.51-58, and dkt.19 at PDF pp.11-13.

Deutsche does not dispute the evidence in the 506 Motion that Debtor has not made any payments on this junior lien debt since 2008 - so Deutsche

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and its servicer were well aware that the debt was not being paid and that they and Debtor had not been in communication for over six years. Deutsche also does not dispute that Debtor took the following steps to try to identify the current holder or servicer of the junior lien debt at the time the 506 Motion was served.

First, Debtor obtained a title search and identified the latest holder of record of the lien, according to the real estate records ("Aegis"). Debtor then served Aegis both at the address listed in the real estate records and in care of their agent for service of process according to the secretary of state's website. See dkt. 19 at PDF pp.11-12, dkt.45 at PDF pp.8:27-9:2.

Second, Debtor spent approximately two and a half hours, with the assistance of her bankruptcy counsel, attempting to contact and eventually communicating with the lender's nominee listed in the deed of trust, Mortgage Electronic Registration System, Inc. ("MERS"). Dkt. 19 at PDF pp.9:3-14, & Ex.2 at PDF p.23. MERS informed Debtor that Aegis was no longer in business and the loan had been sold to GMAC Mortgage, LLC ("GMAC"), which also was no longer in business, and that the loan "is inactive and no longer being tracked by MERS." Dkt.19, Ex.5, at PDF p.2.

Third, MERS also informed Debtor that "Ocwen Loan Servicing LLC [Ocwen] did purchase a remaining portfolio and their contact information has been provided for your convenience." Dkt.19, Ex.5, at PDF p.2. Debtor then, through her attorney's office, sent a fax to Ocwen's research department and "requested [their] cooperation in helping me locate the status of my Second DOT with their company." Dkt. 19 at PDF p.9:12-15. Debtor served the 506 Motion on Ocwen at both the address for its agent for service of process (according to the Secretary of State's website) and in care of its President/CEO at the address listed on Ocwen's website. Dkt.19 at PDF pp.11 & 13.

In short, Debtor appears to have engaged in more than enough steps to try to identify and serve the party who held the second deed of trust on the subject property. Thus Debtor provided notice "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Reply (dkt.46), pp.5:26-6:2 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)).

In addition, Debtor has acted in reliance on avoidance of the second deed of trust for over a year. Dkt. 45 at PDF p.3:1-2. Under the authorities

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cited by Movant, that weighs against granting relief.

In contrast, Movant has not explained (a) why it did not update MERS upon the transfer of ownership to Movant of the second DOT in 2012 (dkt. 38 at p.2:26-27), and (b) why it took over a year after not receiving monthly payments for Movant to determine that Debtor is in bankruptcy and to seek relief from the order avoiding its junior lien.

For all of the foregoing reasons, the tentative ruling is to deny the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Estela Toledo

Represented By
William G Cort

Movant(s):

Deutsche Bank National Trust

Represented By
Lemuel Bryant Jaquez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16965 Nelson Enrique Gomez

Chapter 13

#6.00 Hrg re: Debtor's Motion For Intentional Violation of the Automatic Stay Against Westrux International, Inc.; Request for Sanctions; Request for Attorney's Fees; Request for Compensatory and Punitive Damages

Docket 40

Tentative Ruling:

Appearances required. There is no tentative ruling, except to sustain the evidentiary objections (dkt.54, 55) but the parties should be prepared to address the issues raised in the motion (dkt.40), opposition papers (dkt.53-55) and reply papers (dkt.59-60), including:

(1) whether Debtor should be deemed to have abandoned the vehicle (before having a change of heart) by not responding to demands for payment (see dkt.52, pp.2:11-3:10 and 4:14-6:19, and compare dkt.59, p.4:8-28);

(2) whether, even if there was no actual abandonment, Debtor gave the impression of abandonment, thus

(a) making any alleged violation of the (subsequent) automatic stay not "willful" because Westrux International, Inc. ("Westrux") reasonably believed that no stay applied to abandoned property (see *id.*), thereby precluding compensatory damages including attorney fees, and/or

(b) making any violation of the stay not malicious, oppressive, or undertaken with reckless disregard for Debtor's rights, thereby precluding any punitive damages (see dkt.52, p.7:19-28 and p.8:1-19), and

(c) making any subsequent change of heart by Debtor, and his demand for return of the vehicle, irrelevant unless and until there is a final ruling that there was not actually an abandonment, at which point Westrux would then know that the stay does apply so, from that point forward, it would have to turn over the vehicle (see dkt.59, pp.3:14-4:7 and p.5:1-28);

(3) whether Movant has no lien because it did not apply for authorization to conduct a lien sale or to file a court action within 45 days (30 + 15 days) after the work was completed (Cal. Civ. C. 3068(a)&(b)) (see dkt.59, pp.2:3-3:13), or if Westrux's attempts to contact Debtor and address the bill with him, and Debtor's lack of response, has any effect on that deadline (see dkt.52, pp.2:11-3:10 and 4:14-6:19); and

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(4) whether Debtor can establish any damages (see dkt.52, pp.6:21-7:17).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Nelson Enrique Gomez

Represented By
Maria C Hehr

Movant(s):

Nelson Enrique Gomez

Represented By
Maria C Hehr
Maria C Hehr

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-13208 Patricia Ann Oliver

Chapter 13

#7.00 Hrg re: Motion to Disallow proof of claim of
VW Credit dba VCI Loan Services, LLC #3
on court claims register

Docket 25

Tentative Ruling:

Grant insofar as bifurcating VW Credit, Inc.'s claim such that Clam No. 3, with a total face amount of \$35,191.52, is allowed as a secured claim in the amount of \$25,570.52 and unsecured in the amount of \$9,621.00. Debtor's counsel is reminded that, in future, claim objections should include a copy of the proof of claim. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patricia Ann Oliver

Represented By
Hale Andrew Antico

Movant(s):

Patricia Ann Oliver

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16238 Marvin E Medina and Blanca F. Medina

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- #8.00 Hrg re: Debtors omnibus motion to disallow claims of:
- 1) Claim No. 11 filed by May & Sac
 - 2) Claim No. 21 filed by LVNV Funding, LLC
 - 3) Claim No. 22 filed by LVNV Funding, LLC
 - 4) Claim No. 25 filed by LVNV Funding, LLC
 - 5) Claim No. 26 filed by Flowercargo SA

Docket 29

Tentative Ruling:

Continue to 10/24/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 9/19/19.

Current issues

(1) Omnibus objection

Debtors' objections (dkt. 29) address five separate proofs of claim. Debtors appear to be attempting to come within Rule 3007(d)(6)&(e) (Fed. R. Bankr. P.). Debtors have not made a sufficient showing of grounds justifying the needs for an omnibus objection. Therefore, Debtors must file and serve separate claim objections for each proof of claim.

(2) Grounds for objection

Debtors object to the five proofs of claim on the grounds that they are not entitled to a presumption of validity because they do not contain sufficient documentation. Dkt. 29 at PDF p.3. Debtors cite to Rule 3001(c)(2) (D), but that rule only applies, by its terms, when "the holder of a claim fails to provide any information required by this subdivision (c)." Debtors have not specified how the claimants have allegedly failed to provide the information required by Rule 3001(c).

Moreover, it is not enough to say that there is insufficient writing for prima facie validity under Rule 3001(f). As stated by this Court in its Memorandum Decision Regarding Debtor's Claim Objections in *In re Orozco*, available on the court's website:

It is true that under Rule 3001(f) a proof of claim must be "executed and filed in accordance with these rules" in order to automatically "constitute *prima facie* evidence of the validity and

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amount of the claim." But a rule cannot supersede a statute, and as held by the Bankruptcy Appellate Panel for the Ninth Circuit ("BAP"), an objecting party must do more than simply point to a lack of compliance with Rule 3001 in order to obtain an order disallowing a claim: the objecting party must establish an actual basis to contest the liability or amount of the claim. *See In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). *See also Travelers Cas. & Sur. Co. of Am. V. Pac. Gas & Elec. Co.*, 549 U.S. 443, 449 (2007) ("the court 'shall allow' the claim 'except to the extent that' the claim implicates any of the nine exceptions enumerated in § 502(b)") (quoting the statute). [2:13-bk-15745-NB, dkt. 134 at p.5:8-19]

(3) Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work

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related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marvin E Medina

Represented By
Giovanni Orantes

Joint Debtor(s):

Blanca F. Medina

Represented By
Giovanni Orantes

Movant(s):

Marvin E Medina

Represented By
Giovanni Orantes
Giovanni Orantes

Blanca F. Medina

Represented By
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes

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Marvin E Medina and Blanca F. Medina

Giovanni Orantes

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Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-14994 Patricia Smith

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#9.00 Hrg re: Objection to Claim #8-1 filed by Creditor LoanMe, Inc.

Docket 27

Tentative Ruling:

Grant, except as to the request for attorney fees, which is denied without prejudice because there has been no analysis on that issue, and no declaration authenticating time records (broken down in 10ths of an hour).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Analysis

(1) Although Debtor's attorney has failed to provide a cost/benefit analysis, this Court has exercised its discretion, in view of the extremely high interest rate asserted, to review that issue, and based on Debtor's proposed 100% chapter 13 plan (dkt. 16) it appears that the cost/benefit analysis is satisfied. In future, however, Debtor's attorney is cautioned to provide a cost/benefit analysis.

(2) Based on the motion, the proof of service, and the lack of opposition, the tentative ruling is to grant the motion. See Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

Patricia Smith

Represented By
Joy M Johnson

Movant(s):

Patricia Smith

Represented By
Joy M Johnson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-14994 Patricia Smith

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#10.00 Hrg re: Objection to Claim #3 filed by Creditor Wheels Financial Group, LLC dba 1-800 LoanMart

Docket 29

Tentative Ruling:

Grant, except as to the request for attorney fees, which is denied without prejudice because there has been no analysis on that issue, and no declaration authenticating time records (broken down in 10ths of an hour). Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Analysis

(1) Although Debtor's attorney has failed to provide a cost/benefit analysis, this Court has exercised its discretion, in view of the extremely high interest rate asserted, to review that issue, and based on Debtor's proposed 100% chapter 13 plan (dkt. 16) it appears that the cost/benefit analysis is satisfied. In future, however, Debtor's attorney is cautioned to provide a cost/benefit analysis.

(2) Based on the motion, the proof of service, and this Court's review of the Opposition (dkt. 40), the Reply (dkt. 41), and those facts that are undisputed (as well as facts and circumstances that the parties have elected not to address), the tentative ruling is that Debtor has established a *prima facie* showing that the 180.58% interest rate is both procedurally and substantively unconscionable under *De La Torre v. CashCall, Inc.*, 5 Cal.5th 966 (2018), and that the claimant has failed to rebut that *prima facie* showing.

This Bankruptcy Court is mindful that the courts must tread carefully in the area of interest rates, and this tentative ruling should not be misunderstood to mean that the 180.58% interest rate is *per se* unconscionable. This Bankruptcy Court is also mindful of the fact that either party might request (i) an evidentiary hearing or (ii) the opportunity to submit affidavits. The tentative ruling is that, in the absence of any such request, it is

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appropriate to determine unconscionability on the record presented, without further declarations or affidavits. Even if one or both parties were to request an evidentiary hearing, the tentative ruling is that such a hearing would be an inappropriate burden on the bankruptcy estate, that would prejudice other creditors, and that an evidentiary hearing is not warranted because the inevitable expense of attorney fees (not to mention any expert witnesses or other expenses) far exceed the dollar value for either side of this dispute. *See generally In re Nicholson*, 435 B.R. 622, 635-36 (9th Cir. BAP 2010) (discussing when evidentiary hearing is required), *partially abrogated on other grounds by Law v. Siegel*, 571 U.S. 415, 423-26 (2014).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patricia Smith

Represented By
Joy M Johnson

Movant(s):

Patricia Smith

Represented By
Joy M Johnson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-14994 Patricia Smith

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#11.00 Hrg re: Objection to Claim #5-1 filed by Creditor NetCredit

Docket 31

Tentative Ruling:

Grant, except as to the request for attorney fees, which is denied without prejudice because there has been no analysis on that issue, and no declaration authenticating time records (broken down in 10ths of an hour).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

Analysis

(1) Although Debtor's attorney has failed to provide a cost/benefit analysis, this Court has exercised its discretion, in view of the extremely high interest rate asserted, to review that issue, and based on Debtor's proposed 100% chapter 13 plan (dkt. 16) it appears that the cost/benefit analysis is satisfied. In future, however, Debtor's attorney is cautioned to provide a cost/benefit analysis.

(2) Based on the motion, the proof of service, and the lack of opposition, the tentative ruling is to grant the motion. See Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

Patricia Smith

Represented By
Joy M Johnson

Movant(s):

Patricia Smith

Represented By
Joy M Johnson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-20553 Victor Emmanuel Cruz Santos and Eustaquia Teresita

Chapter 13

#12.00 Hrg re: Application for Compensation of Debtor's Attorney [Brad Weil]

Docket 51

Tentative Ruling:

Grant in part and deny in part as set forth below, **with a caveat**: see below.
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Declaration of Brad Weil in support of Motion for Fees Pursuant to LBR 3015-1(v) (dkt. 56)

Reasons:

Based upon Debtor's counsel's declaration, allow \$2,675.00 in fees and disallow \$700.00 of counsel's requested fees.

Caveat:

Mr. Weil states that in future, instead of applying for a "no look" fee for an opposition that was never filed, he will file an opposition and attach a copy of the docket showing that such an opposition was filed. Dkt.56, p.3, para.7. This is a satisfactory solution if it is efficient for the estate, all parties in interest, and this Court, as explained below.

First, the whole point of this hearing is to assure that fees are being charged in compliance with the applicable statute, rules, and procedures, and that Mr. Weil is not over-billing the bankruptcy estate. Therefore this Court presumes that Mr. Weil's proposed solution means that he will only file an opposition if one is actually warranted. For example, if the Chapter 13 Trustee's motion to dismiss can be resolved with a telephone call or email that takes 0.2 hours, it would be wasteful either (a) to spend 0.6 hours, and bill at an hourly rate, for preparing and filing an opposition, communicating the the Trustee, reviewing the Trustee's withdrawal of the motion, etc., or (b) to

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bill the flat fee for a service (filing an opposition) that was unnecessary. (Mr. Weil could bill at an hourly rate for the 0.2 hours, of course: he just can't bill at either a flat rate or an hourly rate for services that were not performed or were unnecessary.)

Second, this Court presumes that Mr. Weil will implement his proposed solution in a way that does not unduly burden parties or this Court. For example, if he attaches a copy of the docket it should be marked to show the relevant entries, rather than requiring parties or this Court to search for those entries; and if the docket is multiple pages but only one page is relevant, then Mr. Weil should attach only that one page.

Subject to the foregoing, and further subject to any modifications that might be required in future, Mr. Weil's proposed solution appears to be appropriate.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Victor Emmanuel Cruz Santos	Represented By Brad Weil
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Joint Debtor(s):

Eustaquia Teresita Lozada Santos	Represented By Brad Weil
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Movant(s):

Victor Emmanuel Cruz Santos	Represented By Brad Weil Brad Weil
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Eustaquia Teresita Lozada Santos	Represented By
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Brad Weil
Brad Weil

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Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-14940 Georgetta Lee Ciufo

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#13.00 Cont'd order to show cause why Synchrony and Cir Law Firm should not be sanctioned for violating the automatic stay and/or co-debtor stay
fr. 4/18/19, 6/13/19; 07/18/19

Docket 33

Tentative Ruling:

Revised Tentative Ruling for 9/19/19:

Award actual damages, including a \$225 filing fee and slightly reduced attorney fees, in the amount of \$23,625 to date, plus ongoing attorney fees and expenses, and deny Debtor's request for punitive damages and the countervailing request for an award of costs under Rule 7068 (Fed.R.Bankr.P.) by Synchrony Bank ("Synchrony") and CIR Law Offices International, LLP ("CIR") (collectively "Creditors"). Appearances required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Current issues

(1) Liability issues and emotional damages

At prior hearings this Court ruled that Creditors had a choice: if they elected to reopen the "liability issues" then Debtor could reopen the emotional distress issues. See Order Continuing Hearing And Memorializing Rulings (dkt. 51). Creditors elected not to reopen the liability issues, so Debtor is entitled to an award of actual damages, and the remaining issues are the dollar amount of attorney fees to award, and whether to award punitive damages.

(2) Actual damages, apart from attorney fees

As set forth in the Order Continuing Hearing, this Court's ruling is to award Debtor \$225 under section 362(k), payable to Debtor, for her filing fee

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in State Court.

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(3) Attorney fees

The tentative ruling is to award Debtor's Counsel \$23,625 of the requested \$24,660 fees for the following reasons, subject to any additional fees approved by this Court for work done in preparation for this 9/19/19 hearing.

This Court agrees with Synchrony (dkt 57, p.16), and Debtor's counsel does not contest (dkt.59, p.6:18-22), that attorney rates should not be billed for administrative tasks. Therefore this Court has reduced Debtor's counsel's fees in accordance with Synchrony's objections for the following entires:

2/21/2019 - \$225 reduction,
3/25/2019 - \$135 reduction,
4/20/2019 - \$180 reduction,
5/1/2019 - \$90 reduction,
5/31/2019 - \$135 reduction,
6/20/2019 - \$90 reduction,
6/24/2019 - \$180 reduction.

Total: -\$1035

But this Court disagrees with Synchrony's proposed reductions for "inadequate description" of reserach conducted and work conducted re mediation. While Debtor's counsel could have provided more detailed descriptions of what was being researched, this Court is familiar with the papers submitted my Debtor's counsel and what reserach would need to be conducted in order to prepare those papers and attend mediation.

The parties essentially accuse each other other not participating in the mediation in good faith. This Court is not persuaded that it is permissible to delve into what did or did not happen in mediation, and even if it were permissible this Court is not persuaded that it is appropriate. Alternatively, based on all parties' descriptions of what happened in connnection with the mediation, this Court is not persuaded that anything described by the parties warrants, on the one hand, punitive damages or, on the other hand, any reduction of Debtor's counsel's fees for this work.

Accordingly, the tentative ruling is to disallow \$1,035 out of the total \$24,660 requested by Debtor's counsel, for a net award of \$23,625 (i.e., \$24,660 - \$1,035 = \$23,625). This Court contemplates that, after the continued hearing and discovery matters set forth below, this Court will set

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deadlines for Debtor's counsel to file a supplemental fee application, Creditors to respond, and Debtor to reply.

(4) Punitive damages

To state a claim for punitive damages Debtor must show "reckless or callous disregard of the law or rights of others." *In re Bloom*, 875 F.2d 224, 228 (9th Cir. 1989). The tentative ruling is that the evidence is insufficient to establish this level of conduct by Synchrony and CIR, and that it is not appropriate to provide further opportunity to attempt to discover and produce such evidence.

(a) Evidentiary objections

Debtor objects (dkt.59, pp.9:25-10:5) to the declaration of Synchrony's Manager of Litigation Support, Martha Koehler, that it "failed to code Non-Filer's individual accounts for Bankruptcy" and "[u]nfortunately, these accounts were then placed with CIR for collection." Debtor objects that, "to the extent that Ms Koehler is declaring evidence of 'Synchrony's process,' that evidence lacks foundation and is inadmissible hearsay (Federal Rules of Evidence 802), as well as a violation of the Best Evidence Rule. Federal Rules of Evidence 1004." *Id.* (emphasis added).

The tentative ruling is to overrule this evidentiary objection. Ms. Koehler's declaration states:

In my position, I am familiar with Synchrony's bankruptcy processes and routinely review information and records received and created in the normal course of business regarding Synchrony's credit card accounts. The facts stated herein are true and correct and based upon my own personal knowledge and/or upon my personal review of Synchrony's business records pertinent to this matter. [Dkt.57, p.2:10-15 (emphasis added)]

The tentative ruling is that Ms. Koehler, in her position as Manager of Litigation Support, has established a sufficient basis for personal knowledge about Synchrony's process regarding how accounts are supposed to be coded.

Note: It is important to distinguish personal knowledge from reliance on business records, including the records of how Debtor's husband's account was coded in Synchrony's records. On the latter issue Ms. Koehler's declaration might not satisfy Rule 803(6) (Fed. R. Evid.), because it does not state that the relevant records

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were "made at or near the time" of the event at issue (and it does not track the other language of Rule 803(6)). But Debtor has not objected to Synchrony's evidence on that issue (perhaps because it is an admission of Synchrony's mis-coding).

As for the "best evidence" objection, it is true that, if Synchrony has a written policy regarding its process for bankruptcy coding, the best evidence of such a policy would be a written copy. But the tentative ruling is that Ms. Koehler's personal knowledge about how Synchrony actually handles bankruptcy related matters is actually more relevant, and the fact that it has elected either not to have a written policy or not to provide a copy of any such policy goes to the weight, not the admissibility, of Ms. Koehler's declaration regarding Synchrony's policies. So the tentative ruling is to overrule the "best records" objection as well.

As noted below, there are additional evidentiary issues regarding a lack of evidence on some issues that appear to be essential to the elements of any punitive damages award. Those issues will be discussed separately, in connection with the tentative ruling not to continue this hearing.

(b) Synchrony and CIR processes

Theoretically, the processes described by Synchrony and CIR appear to show appropriate safeguards against violation of the automatic stay of 11 U.S.C. 362(a). Synchrony has presented evidence that its process in community property states is to code the non-debtor's spouse to cease collection attempts, that that it inadvertently failed to do so on this occasion. Dkt.57, p.3, para.5-6. CIR has presented evidence that it relies on Synchrony's coding, and that in addition its attorney conducted numerous bankruptcy "scrubs" to determine if the non-Debtor spouse was in bankruptcy.

The problem for Synchrony and CIR is that those systems failed in this case. The question is whether that reflects a "reckless or callous disregard of the law or rights of others." *Bloom*, 875 F.2d 224, 228.

Note: Synchrony asserts that Debtor's creditor matrix apparently used Synchrony's billing address rather than its addresses for correspondence or service of process, but Synchrony has not shown how that is relevant. It clearly knew of the bankruptcy case because it filed a proof of claim. The issue is not whether it knew of Debtor's bankruptcy case, but whether it ceased collection activity against Debtor's non-debtor spouse. On that issue, Synchrony admits that it failed to code the account of Debtor's

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spouse for bankruptcy. So, again, the issue is whether the failure of Synchrony's system in this case establishes grounds for punitive damages.

(c) Letters from Synchrony/CIR to Debtor

Debtor asserts that she received collection letters. Creditors respond that the only letters in evidence are directed to Debtor's attorney, not Debtor (or her non-debtor husband) directly.

The tentative ruling is that this issue cannot be determined without an evidentiary hearing, or at least affidavits, but for purposes of the following discussion this Court is not persuaded that there is any significant difference, insofar as the punitive damages analysis is concerned, between letters sent directly to a debtor and non-debtor spouse and letters sent to an attorney who passes them along to a debtor and non-debtor spouse. Either way, the debtor and non-debtor spouse have the anxiety and stress of ongoing collection efforts despite the relief that they hoped and expected to obtain through the bankruptcy case.

(d) Letters from Debtor's counsel to CIR

More troubling is the issue of letters from Debtor's counsel to CIR and its attorney. Dkt.33, Ex.E. Both CIR and its attorney assert that they have no record of receiving those letters. Debtor's counsel is adamant that those letters were sent, and he points to a number of other aspects of this litigation that, he asserts, show a lack of credibility by Creditors and a pattern of conduct by Creditors that supports sanctions. Among other things, he points to the following.

Debtor's counsel points to a letter from CIR's counsel to this Court about whether this Court should post a tentative ruling (CIR's counsel lists Debtor's counsel as a "cc" on that letter, but Debtor's counsel asserts that he never received such a copy and only discovered the communication through this Court's NEF system). Debtor's counsel also points to a disagreement about the scope of mediation: whether it should include liability, or just the questions of attorney fees and punitive damages. Debtor's counsel and Creditors also exchange accusations concerning the participation in mediation.

The tentative ruling is that credibility issues cannot be determined without an evidentiary hearing. That leads to the question of whether this Court should continue this matter and hold an evidentiary hearing, and perhaps for discovery in preparation for such a hearing.

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(e) Whether to continue this matter

One consideration that would support a continuance is CIR's assertion that an essential element of any punitive damages award is Creditors' financial resources (because someone who has substantial resources might not be deterred from its misconduct by a small punitive sanction). But the tentative ruling is that CIR's argument goes to the dollar amount of any punitive damages, which this Court intended to address separately, only after determining whether or not any award of punitive damages is appropriate.

There is no evidence in the record about whether Synchrony or CIR have a pattern of similar behavior in other cases. The tentative ruling is that the time for Debtor to have presented such evidence would have been in connection with its briefing for this hearing, and the question is whether to reopen the briefing on that issue and permit discovery.

The tentative ruling is not to do so, partly because (A) deadlines generally should be enforced, and partly because (B) the cost and burden of discovery for all parties - and for the bankruptcy estate - likely exceeds the potential benefits. In assessing the latter issue (cost/benefit) this Court considers what punitive damages might be awarded if (x) Creditors were found to have received the letters that Debtor's counsel sent to CIR, (y) Creditors were found to have a pattern of violating the automatic stay when dealing with non-debtor spouses, and to have been reckless or callous regarding the law or rights of others (*Bloom*, 875 F.2d 224, 228) in their coding and other procedures, and (z) Creditors were found to have substantial financial resources. Even in that situation, this Court does not anticipate that punitive damages, including attorney fees, would be much greater than the latest Rule 7068 offer made by Creditors (see below), because the principal issue in awarding punitive damages would be Creditors' misconduct and the resulting harm in this case, and the tentative ruling is that such misconduct and harm, while not insignificant, is not of a type that would warrant very large punitive damages.

This Court is not minimizing the stress, anxiety, sleeplessness, shortness of breath, concerns about heart problems, and other effects that Debtor and her husband appear to have suffered. But nor does this Court minimize that many debtors in bankruptcy face comparable stresses and anxieties: this Court takes judicial notice that debtors often face the prospect of losing their home, or losing their vehicle that is their means of earning a living and visiting loved ones and doing essential errands from medical visits

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CONT... **Georgetta Lee Ciufu**

Chapter 13

to grocery shopping, and much, much more.

For all of these reasons, the tentative ruling is that there is not a sufficient basis to reopen the briefing regarding punitive damages, and to permit discovery. In addition, the tentative ruling is that on the present record there is not a sufficient basis for punitive damages.

(5) Settlement Offer under Rule 68 (Fed. R. Civ. P., incorporated by Rule 7068, Fed.R. Bankr.P.)

Creditors point to evidence that they made an initial offer and then an increased offer (of \$50,000) under Rule 68. Debtor objects (among other things) that Rule 68 only applies in adversary proceedings. Dkt.59, pp.20:22-21:2. The tentative ruling is that this is so.

Rule 7068 provides that "Rule 68 F.R.Civ.P. applies in adversary proceedings." Rule 9014(c) lists which rules in Part VII apply to contested matters, and Rule 7068 is not among the listed rules. True, Rule 9014(c) also states that the bankruptcy court may, at any stage in a particular matter, "direct that one or more of the other rules in Part VII shall apply," but only after reasonable notice and an opportunity to comply. Creditors never requested that this Court issue an order directing that Rule 7068 apply, so it is inapplicable.

(6) Conclusion

For the foregoing reasons, the tentative ruling is to award \$23,850 at this time (the \$225 filing fee + \$23,625 attorney fees to date) and to set a deadline of 10/4/19 for Debtor to file and serve a supplemental declaration with all remaining attorney fees and anticipated fees, a deadline of 10/11/19 for any response, a deadlin of 10/18/19 for any reply, and a hearing on 10/24/19 at 8:30 a.m. to resolve that final piece of this dispute.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 13

Tentative Ruling for 9/19/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 7/18/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 6/13/19, this Court ordered mandatory mediation, and the order assigning the matter to mediation was issued on 6/21/19. Dkt. 48. In the absence of a consensual resolution, the parties should address whether this Court will permit or require any further briefing and/or any evidentiary hearing(s) on (1) liability issues, (2) willfulness/*mens rea*, and (3) damages, including any punitive damages.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED (see dkt.51 for memorialization and adoption of same)]

Party Information

Debtor(s):

Georgetta Lee Ciufo

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:19-12964 John Martin Kennedy

Chapter 13

#14.00 Cont'd hrg. re: Motion to Convert Case from Chapter 13 to 11 Under 11 U.S.C. Sections 706(a) or 1112(a) fr. 05/16/19; 07/18/19

Docket 23

Tentative Ruling:

Tentative Ruling for 9/19/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (1) whether they have met and conferred re the pending adversary proceeding, (2) whether the parties have attended mediation and if they have the status of those efforts, and (3) the appeal for which this Court granted relief from the automatic stay (see dkt. 46)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/18/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (1) the appeal for which this Court granted relief from the automatic stay (see dkt. 46), (2) why the proposed mediation order was not lodged until 6/25/19 despite this Court ordering that it be lodged by 5/30/19 (see dkt. 51,

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CONT... **John Martin Kennedy** Chapter 13

52, 54), and (3) whether this Court should continue this hearing to a date after 9/1/19 as requested by Debtor (dkt. 54).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 5/16/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the opposition and request to dismiss this case (dkt. 31) filed by creditor Yunuen Campos and Debtor's reply (dkt. 32).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/15/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the opposition and request to dismiss this case (dkt. 31) filed by creditor Yunuen Campos.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... John Martin Kennedy

Chapter 13

Debtor(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Movant(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:17-20738 Cesar Augusto Vielman and Ana Marlene Vielman

Chapter 13

#15.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to Modify Plan or Suspend Plan Payments fr. 08/15/19

Docket 39

Tentative Ruling:

Tentative Ruling for 9/19/19:

Appearances required. There is no tentative ruling, but the Chapter 13 Trustee should be prepared to address whether her concerns have been adequately addressed by Debtors (see dkt. 45).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/15/19:

Appearances required. There is no tentative ruling, but the Debtor should be prepared to address the issues raised by the Chapter 13 Trustee's comments (dkt. 41).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Cesar Augusto Vielman and Ana Marlene Vielman

Chapter 13

Debtor(s):

Cesar Augusto Vielman

Represented By
Barry E Borowitz

Joint Debtor(s):

Ana Marlene Vielman

Represented By
Barry E Borowitz

Movant(s):

Cesar Augusto Vielman

Represented By
Barry E Borowitz

Ana Marlene Vielman

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:18-24734 Edward Figueroa and Victoria Rachel Figueroa

Chapter 13

#16.00 Cont'd hrg re: Objection to proof of claim
11 filed by Quantum3 Group LLC
fr. 8/15/19

Docket 25

Tentative Ruling:

Tentative Ruling for 9/19/19:

Grant (sustain the objection to Quantum3 Group LLC's Claim No. 11).

Appearances are not required.

This Court expressly finds that Counsel has provided a cost/benefit analysis (dkt. 28) that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections, so any limitation on fees in the prior tentative ruling on this matter is hereby vacated.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/15/19:

Continue to 9/19/19 at 8:30 a.m. to address the following issues.

Appearances are not required on 8/15/19.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0%

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CONT...

Edward Figueroa and Victoria Rachel Figueroa

Chapter 13

then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Edward Figueroa and Victoria Rachel Figueroa

Chapter 13

Debtor(s):

Edward Figueroa

Represented By
Sundee M Teeple

Joint Debtor(s):

Victoria Rachel Figueroa

Represented By
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-13991 Michelle Rose Rodriguez

Chapter 13

#17.00 Hrg re: Motion to Commence Loan Modification
Management Program (LMM)

Docket 28

Tentative Ruling:

Deny. Appearances are not required.

The tentative ruling is that this Court has no authority to require a lender (if they timely object) to enter into a loan modification, participate in a loan modification program, or even explain their reasons for denial of a prior requested loan modification. The tentative ruling is that, whatever the policy arguments in favor of requiring some sort of explanation, this Court has no power to require that (at least outside of this Court's voluntary LMM program).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Michelle Rose Rodriguez

Represented By
Barry E Borowitz
Nancy B Clark

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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9:30 AM

2:00-00000

Chapter 0

**#16.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

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11:00 AM
2:00-00000

Chapter 0

**#17.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

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11:00 AM

2:16-24753 Antoinette Elisa Galvan

Chapter 7

#18.00 Con't hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order: (A) Authorizing Private Sale of Intellectual Property Assets Outside the Ordinary Course of Business Free and Clear of All Claims, Liens, Encumbrances, and Interests; (B) For Determination of Good Faith Purchaser Under Section 363(m); (C) Approving Assignment of Intellectual Property; and (D) Waiving Fourteen Day Stay Under Rule 6004(h)
fr. 08/20/19

Docket 154

Tentative Ruling:

Continue the motion to 10/24/19 at 8:30 a.m., to be heard concurrently with the Trustee's contemplated objection to Ann's claim of exemption in "tools of the trade," unless that matter is mooted by an increase in the bid price.
Appearances required.

Analysis:

This motion to sell assets under 11 U.S.C. 363(b) and (f)(2) and (f) (4) is brought by the Chapter 7 Trustee (the "Trustee") of the estate of Antoinette Elisa Galvan ("Ann," Case No. 2:16-bk-24753-NB). The Trustee is also acting, for these purposes, on behalf of the chapter 13 estate of Ann's twin sister Gloria Galvan ("Gloria," Case No. 2:16-bk-24755-NB) (see GloriaDkt. 65, 76). The Trustee has filed the sale motion in both cases. AnnDkt.154, 163; GloriaDkt.191, 207.

(1) Background

Prepetition Ann and Gloria operated an online images business (the "Business"), which included selling T-shirts relating to breast cancer emblazoned with the slogan, "Fight Like A Girl." The business was operated through the sisters' entity, Hope Inspired Creations, LLC (referred to herein as "Creations," and referred to by the Trustee as "HIC").

Competitor TSDC, LLC ("TSDC") sued the sisters for trademark infringement and other claims. There was a 2018 settlement but the parties had protracted disputes about whether it had been breached. See

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GloriaDkt.205, Ex.2, p.1 (last para.) & p.2 (Recital 2).

Eventually the sisters removed various images of their products from their online sales websites and, on November 1, 2016 they dissolved Creations. The parties disagree whether (a) Ann is now the sole owner of the Business and/or its assets or (b) each sister owns 50%.

The Trustee argues that both Ann and Gloria testified under oath, at their respective meetings of creditors (11 U.S.C. 341(a)), that the Business was transferred to Ann. The sisters apparently take the position that the Trustee misunderstands, and that Ann only received 100% of the post-dissolution revenues (allegedly because Ann was running the business while Gloria was too busy to do so as a paralegal) and the ownership of the business and/or its assets (collectively, the "Business") was divided 50% to Gloria and 50% to Ann. See AnnDkt.168, pp.2:12-3:28 (Trustee's Reply, quoting 341(a) testimony) *and compare* AnnDkt..165 (Ann's Opposition).

In any event, a few days after dissolving Creations, on November 7, 2016 Ann and Gloria each filed a voluntary chapter 7 bankruptcy petition. Gloria's bankruptcy case was converted to chapter 13 on January 26, 2017, after the United States Trustee ("UST") objected that undisclosed income violated the "means test." See AnnDkt.168, p.5:6-11 (citing GloriaDkt.15, 23).

Just recently, on 9/13/19, this Court issued an order (GloriaDkt.212) approving a settlement agreement between both sisters and TSDC (the "Settlement," GloriaDkt.205, Ex.2). The Settlement provides (among other things) that the sisters will cease using the phrase "Fight Like A Girl" or any similar phrase in the marketing or sale of any goods worldwide, but that nothing in the settlement agreement shall prevent them from "receiving the proceeds or being credited with the sale of any of [their] designs by the Chapter 7 or Chapter 13 trustees," provided that if their "designs are returned to [them], the designs shall be destroyed" GloriaDkt.205, Ex.2, p.3, para.3(h) & 5.

Meanwhile TSDC has reached an agreement with the Trustee to purchase all intellectual property and all social media accounts, websites, and related assets of the Business (the "Assets") from Ann's bankruptcy estate for \$45,000. AnnDkt.163, Ex.1. Ann and Gloria have each filed objections (AnnDkt.165, GloriaDkt.209).

(2) The sisters' objections

Both sisters argue that the Settlement "relates only to 'Fight Like A

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CONT... Antoinette Elisa Galvan

Chapter 7

Girl' trademarks" and "TSDC is attempting to purchase not only items related to 'Fight Like A Girl' but every design that [Gloria] and [Ann] have ever created." AnnDkt.165, p.4:3-12. According to the sisters, the "Fight Like A Girl" assets "only generated approximately 7% of the overall revenue" of the Business. GloriaDkt.209, p.4:22-27, AnnDkt.165, p.4:8-10. They assert that they still have rights in, and have exempted, the non-Settlement portion of the Assets.

The next step in the sisters' argument is that a bankruptcy trustee "may not sell the [Assets] for less than the amount exempted" by a debtor, citing *In re Clark*, 266 B.R. 163, 172 (9th Cir. BAP 2001). GloriaDkt.165, p.4:22-24. See also AnnDkt.209, p.4:15-27.

Note: The sisters do not dispute that, if the proceeds of the sale to be received by their respective bankruptcy estates were to exceed their respective exemptions, then the sale could be approved. See, e.g., *In re Reilly*, 130 S.Ct. 2652, 2657 (2010) (estate can "recover value in the asset beyond the dollar value the debtor expressly declares as exempt"); *In re Gebhart*, 621 F.3d 1206, 1211 (9th Cir. 2010) (estate can sell property that is fully covered by exemption as of petition date, to obtain postpetition appreciation for benefit of estate); *In re Fuentes*, 687 Fed. Appx. 542, 544 (9th Cir. 2017) (exemption is not absolute right to property itself, "[r]ather, it is a debtor's right to retain a certain sum of money when the court orders sale of [the property in which the exemption is claimed]") (internal quotations and citation omitted).

The sisters then calculate that, "[a]ll together, the \$45,000.00 offer by TSDC and the \$7,952.23 from monthly sales collected to date by the Trustee total \$52,952.23, of which the estates of [Gloria] and [Ann] are entitled to \$50% each, or \$26,476.11." GloriaDkt.209, pp.3:24-4:1; AnnDkt.165,p.4:14-18. The sisters assert that Ann's exemptions equal or exceed this \$26,476.11, so under *Clark* the Assets may not be sold.

Note: The sisters' inclusion of the \$7,952.23 in receipts held by the Trustee appears to be an acknowledgment that (a) their claimed exemptions cover both the Assets proposed to be sold to TSDC and those receipts held by the Trustee so (b) in determining whether the proposed sale will result in any net proceeds for the estate, the \$7,952.23 must be deducted.

Note: It is not entirely clear if the sisters are making the same

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Antoinette Elisa Galvan

Chapter 7

argument with respect to Gloria's exemptions. Gloria argues (GloriaDkt.209,pp.5:-6:5) that the Assets cannot be sold because Ann's exemptions (in the 50% of the Assets that Ann claims) equal or exceed 50% of the proposed purchase price of the Assets, so there is no equity for Ann's estate. But in her conclusion Gloria appears to argue (GloriaDkt.209, p.6:7-14) that there will not be sufficient proceeds from the sale to pay her own exemptions, so the sale motion must be denied.

(3) The Trustee's reply

The Trustee argues that, in connection with the prepetition dissolution of Creations (aka HIC), the Business was transferred solely to Ann. The Trustee cites both Ann's and Gloria's 341(a) testimony. The Trustee then argues that Ann's exemptions are less than the sale price so the Assets can be sold.

The Trustee argues in the alternative that the Trustee plans to object to Ann's purported "tools of the trade" exemption in the intellectual property included in the Assets. See AnnDkt.168, pp.11:8-13:9. The Trustee argues that this will reduce "the amount owed to Ann on account of her exemptions to \$23,758.00, which is less than the amount Ann's estate would be entitled to \$26,514.25, even if Gloria's Estate were able to prove its claim to 50% of the Assets. AnnDkt.268, p.13:2-9 (emphasis in original).

Alternatively, the Trustee argues that Ann and Gloria engaged in various misconduct:

(a) Sabotaging the value of the Assets: The sisters purportedly hid the online images of the Business's goods which "deliberately sabotaged" the value of the Assets in an attempt to persuade the Trustee to abandon the Assets to Ann (Ann dkt.168, pp.4:1-5:4 and p.10:26).

(b) Ann hiding income: Ann allegedly "had been improperly retaining postpetition income from the Assets that had trickled into some of her bank accounts despite the Sisters' efforts to 'hide' most of the online images," (*id.*, p.9:17-22).

(c) Gloria hiding income: Gloria allegedly intentionally omitted her "highly compensated" employment from her "means test" in an attempt to qualify for chapter 7 (*id.*, p.5:6-11).

The Trustee appears to be arguing that the sisters should be estopped to assert that Gloria owns 50% of the Business. Alternatively, the Trustee

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Chapter 7

may be asserting that there is some basis for surcharging the claimed exemptions.

(4) Good or bad faith

The Trustee seeks a "good faith" finding under 11 U.S.C. 363(m). The sisters argue that TSDC is acting in bad faith because it has provided "misleading information about [Gloria and Ann] and [Creations]" in an attempt to "obfuscate the value of the [Assets]" and, perhaps as a result, the Trustee did not actively manage the Assets to generate substantial income. AnnDkt.165, pp.5:25-6:20.

(5) Analysis

(a) Standing

This Court has an independent duty to examine standing. Gloria, as a chapter 13 debtor, ordinarily would have, "exclusive of the [chapter 13 trustee], the rights and powers of a trustee under sections 363(b) ... [and] 363(f)" 11 U.S.C. 1303 (emphasis added). But notice of the motion to approve the stipulation allowing the Trustee to manage the Business, and the hearing thereon, was served on Gloria (GloriaDkt.67, 68). Therefore the tentative ruling is that the Trustee has standing to bring the Motion, even if Gloria's bankruptcy estate has a 50% interest in the Business.

(b) Whether Gloria's bankruptcy estate has a 50% interest in the Business and/or its assets

The tentative ruling is that the Trustee has not established a sufficient basis to estop the sisters from asserting that each of them owns a 50% interest in the Business (including the Assets proposed to be sold). The Trustee's own summary of the sisters' bankruptcy schedules shows that they have consistently asserted that 50% ownership interest. See GloriaDkt.211, p.5:15-9:16. The Trustee's excerpts from their 341(a) testimony is consistent with assigning 100% of the revenues/profits of the Business to Ann, because she was running the business while Gloria was focusing on her paralegal employment, and each sister retained a 50% ownership interest in the underlying Business. See AnnDkt.168, pp.2:12-3:28 (Trustee's Reply, quoting 341(a) testimony). That is not the only possible reading of the testimony, and it may have been somewhat misleading, but for purposes of this sale motion it is not enough to establish that Ann owns 100% of the

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CONT... **Antoinette Elisa Galvan**

Chapter 7

Business (and therefore 100% of Assets - what is proposed to be sold).

(c) Calculations

Based on the foregoing, the tentative ruling is that the Trustee must establish that each Debtor has less than \$26,514.25 in allowable exemptions, or alternatively the sale price would have to be increased. The two sets of exemptions are examined separately.

Ann's current (2/28/18) relevant exemptions (summarized AnnDkt.168, p.8:11-16) appear to be as follows:

\$23,758.00 50% interest in the Business and/or its assets
\$ 8,000.00 "tools of trade"
\$31,758.00

Gloria's current (April and June 2017) relevant exemptions (summarized dkt.168, p.8:11-16) appear to be as follows:

\$ 8,000.00 14 registered copyrights
\$ 300.00 50% interest in 3 licensed images from 3d parties
\$ 1,250.00 50% of 23 internet domains
\$ 0.00 dormant online stores
\$ 8,000.00 "tools of trade," 50% of ribbon design business
\$17,550.00

Based on these dollar amounts, the tentative ruling is that *Clark* does not affect the Trustee's ability to sell the 50% interest in the Assets (apparently) held by Gloria's bankruptcy estate, but *Clark* prevents the Trustee from selling the 50% interest in the Assets (apparently) held by Ann's bankruptcy estate, unless (a) the Trustee prevails in the contemplated objection to Ann's "tools of the trade" exemption and/or (b) the bid is increased enough to moot Ann's objection.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

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CONT... Antoinette Elisa Galvan

Chapter 7

Debtor(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

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2:16-24755 Gloria Elisa Galvan

Chapter 13

#19.00 Cont'd hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order; (A) Authorizing Private Sale of Intellectual Property Assets Outside the Ordinary Course of Business Free and Clear of All Claims, Liens, Encumbrances, and Interests; (B) For Determination of Good Faith Purchaser Under Section 363(m); (C) Approving Assignment of Intellectual Property; and (D) Waiving Fourteen Day Stay Under Rule 6004(h)
fr. 08/20/19

Docket 191

Tentative Ruling:

Please see the tentative ruling in the companion case of Antionette Galvan (calendar no. 18, 9/19/19 at 11:00 a.m.)

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:14-22946 Mercedes Yolanda Ruiz

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 95

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tuesday, September 24, 2019

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10:00 AM

CONT... Mercedes Yolanda Ruiz

Chapter 13

Party Information

Debtor(s):

Mercedes Yolanda Ruiz

Represented By

Ollie P Manago - DISBARRED -

Michael E Clark

Barry E Borowitz

Movant(s):

U.S. Bank National Association

Represented By

Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:15-15721 Juan C. Garcia and Elia E. Garcia

Chapter 7

#2.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON FKA
THE BANK OF NEW YORK
VS
DEBTOR

Docket 174

Tentative Ruling:

Grant in part and continue in part to 10/15/19 at 10:00 a.m. as set forth below.
Appearances are not required on 9/24/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Relief notwithstanding future bankruptcy cases.

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the

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10:00 AM

CONT... **Juan C. Garcia and Elia E. Garcia**

Chapter 7

documents through which the movant asserts its interest in the property (sometimes referred to in the mortgage context as the "original borrower"). Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Cesar Amador.

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant (i) serving, on the day after the current hearing date, the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service no later than the next day. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Juan C. Garcia and Elia E. Garcia Chapter 7

Party Information

Debtor(s):

Juan C. Garcia

Represented By
Charles J Brash

Joint Debtor(s):

Elia E. Garcia

Represented By
Charles J Brash

Movant(s):

THE BANK OF NEW YORK

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:16-21984 Jose Santana Figueroa Damian

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 56

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 58).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Santana Figueroa Damian

Represented By
Onyinye N Anyama

Movant(s):

Nationstar Mortgage LLC as

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:17-20626 Bernice Roberts Taylor

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

CHAMPION MORTGAGE COMPANY DBA
NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 26

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the Debtor has obtained proof of insurance coverage for the period of 7/1/17 - 10/13/17, (b) Debtor's alleged non-payment of property taxes (dkt. 26 at PDF p.6; not disputed in Debtor's response, dkt.28), (c) whether the alleged arrears have been brought current and/or (d) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 28).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Bernice Roberts Taylor

Represented By
Thomas B Ure

Movant(s):

Champion Mortgage Company

Represented By
Anna Landa

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10:00 AM

CONT... Bernice Roberts Taylor

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:17-23996 **Randall Allen Rush and Jervonia Monique Rush**

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

CITIBANK, NA
vs
DEBTOR

Docket 74

*** VACATED *** REASON: Voluntary Dismissal filed 9/17/19 (dkt. 78)

Tentative Ruling:

Party Information

Debtor(s):

Randall Allen Rush

Represented By
Kahlil J McAlpin

Joint Debtor(s):

Jervonia Monique Rush

Represented By
Kahlil J McAlpin

Movant(s):

Citibank, N.A.

Represented By
Nancy L Lee
Aaron Hardison
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:18-20491 Carl De La Fuente

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

SPECIALIZED LOAN SERVICING LLC
vs
DEBTOR

Docket 36

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 38).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carl De La Fuente

Represented By
Joseph A Weber
Fritz J Firman

Movant(s):

SPECIALIZED LOAN SERVICING

Represented By
Mukta Suri
Erica T Loftis Pacheco

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

10:00 AM

CONT... Carl De La Fuente

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-12583 Diana Carolina Causey

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 35

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Diana Carolina Causey

Chapter 13

Party Information

Debtor(s):

Diana Carolina Causey

Represented By
Kevin T Simon

Movant(s):

U.S. Bank National Association, not

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-20010 Eva Gincig

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

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CONT...

Eva Gincig

Chapter 13

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Eva Gincig

Pro Se

Movant(s):

Wells Fargo Bank N.A., et al

Represented By
Bonni S Mantovani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-20053 Ramon Negrete Luna

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 10

***** VACATED *** REASON: Resolved by stipulation (dkt.15) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Ramon Negrete Luna

Represented By
Scott Kosner

Movant(s):

U.S. Bank National Association, as

Represented By
Renee M Parker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:18-20032 Vikki C Loveall

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]

ONEMAIN FINANCIAL SERVICES INC.
vs
DEBTOR

Docket 71

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Vikki C Loveall

Chapter 13

Party Information

Debtor(s):

Vikki C Loveall

Represented By
John Habashy

Movant(s):

ONEMAIN FINANCIAL

Represented By
James MacLeod

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:18-24834 Gilberto Andrade Jr.

Chapter 13

#11.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 50

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tuesday, September 24, 2019

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10:00 AM

CONT... Gilberto Andrade Jr.

Chapter 13

Party Information

Debtor(s):

Gilberto Andrade Jr.

Represented By
Stephen L Burton

Movant(s):

TOYOTA MOTOR CREDIT

Represented By
Dennis C. Winters

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-12302 La Chanda Charlene Webb

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

GLOBAL LENDING SERVICES LLC
vs
DEBTOR

Docket 37

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 41).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

La Chanda Charlene Webb

Represented By
Hale Andrew Antico

Movant(s):

Global Lending Services LLC

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-19608 Carol Y Espina

Chapter 13

#13.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 15

Tentative Ruling:

Deny. Appearances required to address whether the case should be dismissed (see Judge Bason's Procedures, posted at www.cacb.uscourts.gov, then search for "362(c)(3)").

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons: The motion was not timely set for hearing in accordance with 11 U.S.C. 362(c)(3)(B) (providing that "on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30 day period [after the petition date, *i.e.*, 8/16/19 + 30 days]." (emphasis added)).

Debtor originally attempted to self-calendar the motion for 9/19/19 (which is not a date on which these types of motions ordinarily are heard), but even that date would have been more than 30 days after the petition date. The tentative ruling is that none of the foregoing is intended to be with prejudice to Debtor (a) seeking and obtaining confirmation of a chapter 13 plan - which, if accomplished, may bind creditors and prevent them from taking acts to collect prepetition debts as long as Debtor continues to perform under the plan, or (b) filing another chapter 13 case and seeking and obtaining imposition of the automatic stay under 11 U.S.C. 362(c)(4) (assuming without deciding that this would be the appropriate type of relief).

No attorney fees: This Court presumes that counsel for the debtor will not charge any fees for the time spent on this motion (because counsel knew or

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

CONT... Carol Y Espina Chapter 13

should have known of the earlier case and knew or should have known of the 30 day deadline). If counsel intends to charge any fees then the procedures must be followed to dispute this tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carol Y Espina

Represented By
Jacqueline D Serrao

Movant(s):

Carol Y Espina

Represented By
Jacqueline D Serrao
Jacqueline D Serrao

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-20028 Michael John Morales and Maria C Morales

Chapter 13

#14.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

CONT... **Michael John Morales and Maria C Morales** **Chapter 13**

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michael John Morales

Represented By
Claudia C Osuna

Joint Debtor(s):

Maria C Morales

Represented By
Claudia C Osuna

Movant(s):

Michael John Morales

Represented By
Claudia C Osuna

Maria C Morales

Represented By
Claudia C Osuna

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-20529 Patrick George Knight and Edith Irmtraut Knight

Chapter 13

#15.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 7

Tentative Ruling:

Grant, subject to the following conditions, and subject to any proper response (due 9/19/19). Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

CONT... **Patrick George Knight and Edith Irmtraut Knight** **Chapter 13**

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patrick George Knight

Represented By
Barry E Borowitz

Joint Debtor(s):

Edith Irmtraut Knight

Represented By
Barry E Borowitz

Movant(s):

Patrick George Knight

Represented By
Barry E Borowitz
Barry E Borowitz

Edith Irmtraut Knight

Represented By
Barry E Borowitz
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:17-22189 Ana Rosa Silva

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/20/19

BANK OF AMERICA, N.A.
vs
DEBTOR

Docket 57

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required. At the prior hearing, this Court was persuaded to grant a continuance for a possible adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

CONT... **Ana Rosa Silva** **Chapter 13**
present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ana Rosa Silva

Represented By
George J Paukert

Movant(s):

Bank of America N.A.

Represented By
Madison C Wilson
Can Guner
Sean C Ferry
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-12322 Tammy Javonillo-Zimmerman

Chapter 13

#17.00 Cont hrg re: Motion for relief from stay [RP]
fr. 7/30/19

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 26

Tentative Ruling:

Tentative Ruling for 9/24/19:

Continue to 10/15/19 at 10:00 a.m. for completion of the sale of Debtor's condominium and payment of Movant out of escrow, as contemplated at the hearing on 7/30/19. See dkt. 35, 41. Appearances are not required. on 9/24/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 30).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

CONT... Tammy Javonillo-Zimmerman Chapter 13
by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tammy Javonillo-Zimmerman	Represented By Thomas B Ure
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Movant(s):

Nationstar Mortgage LLC d/b/a Mr.	Represented By Nancy L Lee Merdaud Jafarnia
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:19-12322 Tammy Javonillo-Zimmerman

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 8/20/19

CAPITAL ONE AUTO FINANCE
VS
DEBTOR

Docket 32

*** VACATED *** REASON: Withdrawn (dkt.35)

Tentative Ruling:

Party Information

Debtor(s):

Tammy Javonillo-Zimmerman

Represented By
Thomas B Ure

Movant(s):

Capital One Auto Finance, a division

Represented By
Cheryl A Skigin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:17-11163 Linet Morin

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/9/19, 7/30/19, 9/10/19

CITIBANK, NA.
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 9/24/19 (same as for 9/10/19, 7/30/19 and 7/9/19, except last clause):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's late-filed response, dkt.36, and Movant's late-served notice of continued hearing, dkt.37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Linet Morin

Represented By
Kerry P O'Brien

Movant(s):

Citibank, N.A., as Trustee, in trust

Represented By
Daniel K Fujimoto
Caren J Castle

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

CONT... Linet Morin

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

2:17-13663 Clifford L Meeks and Beverly A Meeks

Chapter 13

#20.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/10/19

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 40

Tentative Ruling:

Tentative Ruling for 9/24/19 (same as for 9/10/19, except last clause):
Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 42, and Movant's late-served notice of continued hearing, dkt.44).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Clifford L Meeks

Represented By
David S Hagen

Joint Debtor(s):

Beverly A Meeks

Represented By
David S Hagen

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

10:00 AM

CONT... Clifford L Meeks and Beverly A Meeks

Chapter 13

Movant(s):

Deutsche Bank National Trust

Represented By
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

11:00 AM

2:19-10546 Timesha Denise Pulliam

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Heide Kurtz, Ch. 7 Trustee]

Docket 19

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$1,024.75 in fees, and \$21.36 in expenses, for a total of \$1,046.11. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Timesha Denise Pulliam

Represented By
Brad Weil

Trustee(s):

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

11:00 AM

2:19-13984 Rogelio Morales Hernandez

Chapter 13

Adv#: 2:19-01207 Hernandez v. Avail Holding LLC et al

#2.00 Status conference re: Complaint for Validity, priority or extent of lien or other interest in property; injunctive relief; Declaratory judgment

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Continue this status conference to be concurrent with the hearing on the pending motion to dismiss, which is presently scheduled for 10/15/19 at 11:00 a.m. The Court has reviewed the parties' status reports (adv. dkt. 8, 9). The parties are reminded to file their joint status report timely. Appearances are not required on 9/24/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Rogelio Morales Hernandez

Represented By
Mariano A Alvarez

Defendant(s):

Avail Holding LLC

Represented By
Abe G Salen

Does 1-10

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

11:00 AM

CONT... Rogelio Morales Hernandez

Chapter 13

Plaintiff(s):

Rogelio Morales Hernandez

Represented By
Mariano A Alvarez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01218 Vaatete v. Graff

#3.00 Status conference re: Complaint to determine non-dischargeability of debt pursuant to 11 U.S.C. section 523(a)(6) and 11 U.S.C. section 727(c)

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). This Court has reviewed Plaintiff's unilateral status report (adv. dkt. 11) and the other filed documents and records in this adversary proceeding.

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order entitled "Order On Initial Status Conference" via LOU within 7 days after the status conference, attaching a copy of this tentative ruling.

Preliminary matters: continuance

Plaintiff's Status Report notes (a) that a Clerk's Default was entered in this case on 8/20/19 (adv. dkt. 9) and (b) that she will either seek relief from the automatic stay to proceed with defamation actions in nonbankruptcy court and/or seek a default judgment in this adversary proceeding. The tentative ruling is to continue this Status Conference as set forth below, at which time this Court can assess what progress has been made on those issues. Note: In addition, this Court will hold a Status Conference concurrent with any other hearing in this adversary proceeding (including any self-calendared hearings).

Standard matters

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 24, 2019

Hearing Room 1545

11:00 AM

CONT...

Zeta Graff

Chapter 7

Plaintiff is directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. [Intentionally omitted.]

(3) Deadlines: This adversary proceeding has been pending since 7/12/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 10/30/19.

Continued status conference: 11/12/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
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Los Angeles
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Tuesday, September 24, 2019

Hearing Room 1545

11:00 AM

CONT... **Zeta Graff**

Chapter 7

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff	Pro Se
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Defendant(s):

Zeta Graff	Pro Se
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Plaintiff(s):

Olivia Vaatete	Represented By Scott D Dinsmore Brennan Mitch
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Trustee(s):

Sam S Leslie (TR)	Represented By Elissa Miller
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01219 Ramsaur v. Graff

#4.00 Status conference re: Complaint to determine dischargeability of debt under 11 U.S.C. sections 523(a)(2)(A) and 523(a)(6)

Docket 1

Tentative Ruling:

The tentative ruling is to continue this Status Conference as set forth below, at which time this Court can assess what progress has been made on any motion for a default judgment, based on this Court's reviewed of Plaintiff's unilateral status report (adv. dkt. 12) and the other filed documents and records in this adversary proceeding. Plaintiff is directed in future to use the mandatory form of status report (available at www.cacb.uscourts.gov) - among other things, it has a question regarding consent to this Court's entry of final orders. Appearances are not required on 9/24/19.

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order entitled "Order On Initial Status Conference" via LOU within 7 days after the status conference, attaching a copy of this tentative ruling.

Preliminary Issues: continuance

Note: This Court will hold a Status Conference concurrent with any other hearing in this adversary proceeding (including any self-calendared hearings).

Standard issues

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final

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orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. [Intentionally omitted.]

(3) Deadlines: This adversary proceeding has been pending since 7/12/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 11/12/19.

Continued status conference: 11/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff

Pro Se

Defendant(s):

Zeta Graff

Pro Se

Plaintiff(s):

Brett Ramsaur

Represented By
Brett Ramsaur

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

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2:17-23651 Letitia Louise Wellington

Chapter 7

Adv#: 2:19-01211 Avery v. Wellington et al

- #5.00** Status conference re: Complaint for 1. Declaratory relief;
2. Turnover of bankruptcy estate property under 11 U.S.C.
section 542(a) (2131 S. Orange Drive, in Los Angeles, CA 90016);
and 3. Authorization to sell estate property under 11 U.S.C.
section 363(h) and FRBP 7001(3); Free of co-owner interest;
4. Bar debtor and Amos Q. Wellington from recovering avoided
transfer under bankruptcy code, under 11 U.S.C. section 522(g)
(1)(A) and (B)

Docket 1

*** VACATED *** REASON: Cont'd to 11/12/19 at 1:00 p.m. [dkt. 8]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Defendant(s):

Letitia Louise Wellington

Pro Se

Amos Q. Wellington

Pro Se

Jonathan Wellington

Pro Se

Michael Wellington

Pro Se

Plaintiff(s):

Wesley H Avery

Represented By
Brett B Curlee

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

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11:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

Adv#: 2:19-01232 Steyn v. Karl S. Reinecker, An Accountancy Corporation et a

#6.00 Status conference re: Complaint for: 1. Damages for violations under the truth and lending act; 2. Damages for violations of the home ownership and equity protection act; 3. Unfair practices act under California Civil Code section 17200; 4. Breach of fiduciary duty; and 5. Declaratory relief

Docket 1

***** VACATED *** REASON: Cont'd to 11/5/19 at 2pm entered 9/3/19
[Dkt. #9]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Defendant(s):

Karl S. Reinecker, An Accountancy

Represented By
Lewis R Landau

Marquee Funding Group, Inc.

Represented By
Lewis R Landau

DOES 1-10

Pro Se

Plaintiff(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

- #7.00** Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt Pursuant to Sections 523 and 727 of the United States Bankruptcy Code fr. 9/4/18,10/9/18, 11/27/18, 01/08/19, 2/5/19, 03/05/19, 04/30/19, 06/04/19; 07/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). The parties should be prepared to discuss the following issues:

(1) No Status Report

Again, the parties have not filed a Joint Status Report. Why not?

(2) Efforts to finalize settlement

The 4/18/19 status report (adv.dkt.19) reports that this matter has settled. But the dockets in this adversary proceeding and in the associated bankruptcy case still do not reflect any steps to finalize the settlement (e.g., a motion in this adversary proceeding to approve a stipulated judgment, and/or a status report regarding the status of settlement payments and a suggested date to continue this matter, and/or if necessary a motion in the bankruptcy case to approve a settlement per Rule 9019, Fed. R. Bankr. P.). Why not? This adversary proceeding has been pending since 6/22/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 7/30/19:

Continue to 9/19/19 at 11:00 a.m., with a brief status report due 9/5/19 addressing whether the required settlement payments have been made, and any other issues regarding the parties' settlement (as reported at the status conference on 6/4/19). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties are directed to address why the docket does not reflect any steps to finalize their reported settlement (e.g., a motion in this adversary proceeding to approve a stipulated judgment, and/or if necessary a motion in the bankruptcy case to approve a settlement per Rule 9019, Fed. R. Bankr. P.). This adversary proceeding has been pending since 6/22/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue this status conference to 6/4/19 at 11:00 a.m. so that the parties can document their settlement and obtain any approval of Court that may be necessary or appropriate. See Status Report (adv. dkt. 19). Appearances

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are not required on 4/30/19.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:
Appearances required.

The parties are directed to address (1) why no status report was filed as required by the adopted 2/5/19 tentative ruling, and (2) whether the parties have scheduled and/or attended mediation.

The tentative ruling is to continue this status conference to 4/9/19 at 11:00 a.m, with a brief status report due by 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue to 3/5/19 at 11:00 a.m, with a brief status report due by 2/26/19. Although the latest Status Report (adv. dkt. 16) does not address whether the mandatory mediation ordered by this Court has occurred, it appears that more time is needed for mediation. Caution: If the parties do not schedule and attend mediation before the next status conference, this Court may impose sanctions on the recalcitrant party(ies). Appearances are not required on 2/5/19.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19.

Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be continued? Should this adversary proceeding be dismissed for lack of prosecution?

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. Cf. adv. dkt. 7 (belated request for mediation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly

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consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By
Charles J Brash

Plaintiff(s):

Sharon Graner

Represented By
Stephen B Goldberg

Kieran Graner

Represented By
Stephen B Goldberg

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

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2:19-10153 Christian Rossil

Chapter 7

Adv#: 2:19-01138 Rossil v. Ruan Partida et al

#8.00 Cont'd status conference re: Complaint for a determination of the validity, priority or extent of liens and security interests
fr. 07/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order entitled "Order On Initial Status Conference" via LOU within 7 days after the status conference, attaching a copy of this tentative ruling.

This Court has reviewed the parties' joint status report (dkt. 9) and the other filed documents and records in this adversary proceeding. The tentative ruling is to order mediation - as requested by both parties - and continue this Status Conference as set forth below.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his

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claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 10/2/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/10/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 12/3/19.

Continued status conference: 12/17/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial

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Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Continue to 9/19/19 at 11:00 a.m. to provide the newly-appointed Chapter 7 Trustee an opportunity to meet and confer with the defendants (see adv. dkt. 8). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

Defendant(s):

Daniel Ruan Partida

Represented By
Lazaro E Fernandez

Sergio Salgado

Pro Se

Plaintiff(s):

Christian Rossil

Represented By

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Todd B Becker

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Trustee(s):

David M Goodrich (TR)

Pro Se

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2:19-11831 Charles S Dickens

Chapter 7

Adv#: 2:19-01157 Twisted Oliver Holdings, LLC v. Dickens

#9.00 Cont'd status conference re: Complaint to deny discharge (11 U.S.C. section 727) fr. 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Preliminary matters:

(1) Status Report

The parties have failed to file any joint status report. Why not?

(2) Status of mediation

This Court has reviewed the filed documents and records in this adversary proceeding. This Court notes that the matter was assigned to mediation on 8/19/19 (adv. dkt. 13). The parties should be prepared to discuss the status of any mediation efforts.

(2) Dates/deadlines:

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket number(s) 8, AND/OR at the hearing(s) on 7/30/19).

This adversary proceeding has been pending since 5/28/19. The tentative ruling is not to set any trial-related deadlines, except:

Joint Status Report: 12/3/19.

Continued status conference: 12/17/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the parties' joint status report (adv. dkt. 8) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 8/13/19 for the parties to lodge a proposed

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CONT... Charles S Dickens

Chapter 7

mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/28/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 9/10/19

Continued status conference: 9/24/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Charles S Dickens

Represented By
Eric Bensamochan

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CONT... Charles S Dickens

Chapter 7

Defendant(s):

Charles S Dickens

Represented By
Eric Bensamochan

Plaintiff(s):

Twisted Oliver Holdings, LLC

Represented By
Holly Walker

Trustee(s):

Wesley H Avery (TR)

Represented By
Kathy Bazoian Phelps

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11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:19-01156 Gonzalez v. Karen et al

#10.00 Cont'd status conference re: Complaint to avoid and recover preferential transfer [11 U.S.C. sections 547(b), 550, 551] fr. 7/30/19

Docket 1

*** VACATED *** REASON: Another summons issued to serve on DK Law Group, LLP; Reset to 10/29/19 at 11:00 a.m.

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David M. Karen

Represented By
Keith S Dobbins

DK Law Group, LLP

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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11:00 AM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#11.00 Hrg re: Motion to Quash Cathay Bank's Subpoenas
or, in the Alternative, for A Protective Order

Docket 35

***** VACATED *** REASON: This matter is to be heard at a different
time. See # 5 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Montserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Represented By
Michael J Khouri

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Marlene McNeal

Represented By

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CONT... Schaefer Ambulance Service, Inc

Chapter 11

	Frances M O'Meara
James McNeal III	Represented By Frances M O'Meara
Leslie M McNeal	Represented By Frances M O'Meara

Movant(s):

Louella M McNeal	Represented By Frances M O'Meara Frances M O'Meara Frances M O'Meara Frances M O'Meara Frances M O'Meara
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Leslie M. McNeal	Represented By Frances M O'Meara Frances M O'Meara Frances M O'Meara Frances M O'Meara Frances M O'Meara
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Marlene L. McNeal	Represented By Frances M O'Meara Frances M O'Meara Frances M O'Meara Frances M O'Meara Frances M O'Meara
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Marlene McNeal	Represented By Frances M O'Meara
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James McNeal III	Represented By Frances M O'Meara
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Plaintiff(s):

Cathay Bank, a California banking	Represented By Michael G Fletcher
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CONT... Schaefer Ambulance Service, Inc

Chapter 11

Reed S Waddell
Gerrick Warrington

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Hearing Room 1545

1:00 PM

2:19-19999 Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues n/a

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 12/2/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 1/13/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/12/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kim Gordon McNulty

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

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CONT... Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

Joint Debtor(s):

Melissa Amanda McNulty

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

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2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#2.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Budget motion

Debtor's status report states that it has not filed a budget motion because it is not required by the presiding judge's procedures. Dkt. 23, p.3. Judge Bason's posted procedures (available at cacb.uscourts.gov) Section VII.G provide that budget motions are mandatory in all chapter 11 cases. The tentative ruling is to set a deadline of 9/30/19 to file and serve a budget motion.

(b) Settlement Discussions

The Debtor should be prepared to provide this Court with an update on the status of any settlement discussions with the existing lienholder.

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 1/3/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/12/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford

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2:19-20273 Alex Christopher Padilla

Chapter 11

#3.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor(s) and by Debtor himself.

(1) Current issues

(a) Budget Motion

Debtor's status report incorrectly states that a budget motion is not required by the presiding judge's procedures. Dkt. 20, p.3. See posted Procedures of Judge Bason (available at cacb.uscourts.gov) (the "Bason Procedures") Section VII.G. In addition, a budget motion appears to be particularly important in this case because most of Debtor's income and expenses are effectively hidden and/or mis-reported.

Debtor's Bankruptcy Schedule I reports that he is an interior designer/hair stylist (dkt.22, at PDF p.27), his Statement Of Financial Affairs ("SOFA") lists various "dba" enterprises that might or might not reflect other business ventures, and Debtor apparently rents out some of his properties using Airbnb, but there is no breakdown of any of this. Contrary to the instructions on line 8a of Schedule I, debtor lists only a total net dollar amount for all businesses/properties combined - \$22,598.00 per month - and fails to attach a statement for each business/property showing gross receipts, ordinary and necessary business expenses, and the calculation of net income. Also, in apparent contradiction of this alleged monthly net income, the SOFA (dkt. 22 at PDF p.31) lists gross income of \$20,000 for the year to date (9 months), \$7,875 for 2018, and \$28,223 for 2017. (Perhaps Debtor listed monthly net income instead of yearly gross income - if so he must file a corrected SOFA.)

The tentative ruling is to direct Debtor to file an amended Schedule I and an amended SOFA, and to file and serve a budget motion and any other documents that are necessary or appropriate to correct the foregoing deficiencies, no later than 9/27/19.

(b) Bankruptcy Schedule G

Debtor lists no executory contracts or unexpired leases (dkt.22, at PDF

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p.24). What about Airbnb and/or other short-term or long-term rental arrangements? The tentative ruling is to direct Debtor to file an amended Schedule G no later than 9/27/19.

(c) Cash collateral

Even though this case was filed on 8/30/19, Debtor did not self-calendar his cash collateral motion for hearing until over a month later, on 10/1/19 at 1:00 p.m. Meanwhile, has Debtor (i) been using cash collateral without authorization (in violation of 11 U.S.C. 363(c)) or (ii) not been using cash collateral, and hence failing to pay ordinary and necessary business and personal expenses, in violation of Debtor's duties to pay postpetition debts as they come due and preserve and maximize the value of the bankruptcy estate. 11 U.S.C. 1107(a) and 1108, and 28 U.S.C. 959(b). The tentative ruling is that, although this is not yet sufficient cause for appointment of a chapter 11 trustee or other remedies, it may factor into consideration of any such remedies in future.

(d) Employment Application

The tentative ruling is to set a deadline of 9/27/19 for Debtor to file and serve local form F 2014-1.STMT.DISINTERESTED.PROF in support of Debtor's application to employ Eric Bensamochoan as his bankruptcy counsel (dkt. 18). See Bason Procedures Section VII.D.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/1/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#4.00 Hrg re: Second Motion for Order (1) Extending Debtors Exclusivity Period for Filing and Gaining Acceptance of a Plan of Reorganization, And (2) Extending Debtors Period to Assume or Reject Unexpired Leases of Non-Residential Real Property

Docket 345

***** VACATED *** REASON: This matter is scheduled to be heard at a different time - See #3 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Movant(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Craig G Margulies
Craig G Margulies
Montserrat Morales
Montserrat Morales
Montserrat Morales

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2:19-18998 NAMR1726 LLC

Chapter 11

#5.00 Hrg re: U.S. Trustee's motion to dismiss or convert case

Docket 37

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 8, 9/24/19 at 1:00 p.m.).

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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2:19-18998 NAMR1726 LLC

Chapter 11

#6.00 Hrg re: Motion in Individual Ch 11 Case for Order Employing Professional (LBR 2014-1): Thomas B. Ure as General Bankruptcy Counsel Pursuant To Local Bankruptcy Rule 2014-1 And To File Interim Fee Applications Using Procedure In Local Bankruptcy Rule 9013-1(o)

Docket 24

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 8, 9/24/19 at 1:00 p.m.).

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

NAMR1726 LLC

Represented By
Thomas B Ure

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2:19-18998 NAMR1726 LLC

Chapter 11

#7.00 Cont'd hrg re: Maxim Commercial Capital, LLC's motion for sanctions against Thomas B. Ure and the Ure Law Firm for Violation of Rule 9011 fr. 9/10/19

Docket 32

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 8, 9/24/19 at 1:00 p.m.).

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

Maxim Commercial Capital, LLC

Represented By
Andrew K Alper

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2:19-18998 NAMR1726 LLC

Chapter 11

#8.00 Cont'd status conference re: Chapter 11 case
fr. 9/10/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required.

(1) Current issues

(a) Motion to Dismiss, Convert or Appoint a Chapter 11 Trustee (dkt. 37), Debtor's Opposition (dkt. 55), no reply is on file

If Debtor is not in full compliance with all UST requirements by the hearing, this Court will determine whether to dismiss, convert or appoint a chapter 11 trustee in this case.

(b) Application to Employ Ure Law Firm (dkt. 24), Statement of Disinterestedness (dkt. 23), Maxim's Oppositions (dkt. 31, 50), Notice of hearing (dkt. 40), Debtor's Reply (dkt. 61)

The tentative ruling is to deny Debtor's request to employ the Ure Law Firm ("Ure Firm"), and set a **10/4/19** deadline for Debtor to file and serve an application to retain new counsel, for the following reasons:

(i) Mr. Ure and the Ure Firm are not "disinterested" and represent an "adverse interest" to the estate by reason of their representation of HDA Trucking, Inc. and Nelson Sargsyan

11 U.S.C. Section 327(a) "requires the application of a two-pronged test for the employment of professional persons. A debtor-in-possession may employ attorneys with court approval only if (1) they do not hold or represent an interest adverse to the estate, and (2) they are disinterested persons." *In re Tevis*, 347 B.R. 679, 687 (9th Cir. BAP 2006).

The term "adverse interest" is not defined in the Bankruptcy Code, but has been defined by case law to mean:

(1) possession or assertion of an economic interest that would tend to lessen the value of the bankruptcy estate; or (2) possession or assertion of an economic interest that would create either an actual

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NAMR1726 LLC

Chapter 11

or potential dispute in which the estate is a rival claimant; or (3) possession of a predisposition under circumstances that create a bias against the estate.

Tevis, 347 B.R. 679, 688. "To represent an adverse interest means to serve as an attorney for an entity holding such an adverse interest." *Id.*

The term "disinterested person" is defined in the Bankruptcy Code to include, *inter alia*, one who "does not have an interest materially adverse to the interests of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason." 11 U.S.C. Section 101(14) (C). "For the purpose of disinterestedness, a lawyer has an interest materially adverse to the interest of the estate if the lawyer either holds or represents such an interest." *Tevis*, 347 B.R. 679, 688.

The tentative ruling is to find that because Mr. Ure and the Ure Firm represented HDA Trucking, Inc. ("HDA Trucking") in its recent bankruptcy case (Case No. 1:19-bk-11595-DS) (the "HDA Trucking Bankruptcy Case"), and have represented HDA Trucking's principal, Nelson Sargsyan ("Mr. Sargsyan"), in his pending bankruptcy case (Case No. 1:19-bk-10790-VK) (the "Sargsyan Bankruptcy Case"), the Ure Firm is not a "disinterested person" and represents an "adverse interest" to the estate for purposes of this case because Debtor's Bankruptcy Schedules identify HDA Trucking as a creditor of Debtor's estate (see dkt. 1, PDF pp.6 & 16) and because there have been inconsistent representations made by HDA, Sargsyan, and Debtor regarding the chain of interests in 8527 Hedges Way, Los Angeles, California 90069 (the "Hedges Property"), which is the real property that is at the center of all these bankruptcy cases.

(ii) Mr. Ure and the Ure Firm violated Rule 2014(a) by failing to disclose their connection with Mr. Sargsyan and HDA Trucking

Rule 2014(a) (Fed. R. Bankr. P.) requires that a firm's application for employment disclose "all of the [applicant's] connections with the debtor, creditors, [or] any other party in interest" The disclosure requirements of Rule 2014 are strictly applied. *In re Park-Helena Corp.*, 63 F.3d 877, 881 (9th Cir. 1995). Professionals "cannot pick and choose which connections are irrelevant or trivial . . . No matter how old the connection, no matter how trivial it appears, the professional seeking employment must disclose it." *Id.* at 882.

In this case, Mr. Ure and the Ure Firm failed to disclose their prior representation of HDA Trucking in its bankruptcy case, or their prior and

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current representation of Mr. Sargsyan in his bankruptcy case, in either the Application (dkt. 24) or the Statement of Disinterestedness (dkt. 23).

For the foregoing reasons, the tentative ruling is that the Ure Firm is disqualified from representing the Debtor and its employment must be denied.

(c) Maxim's Rule 9011 Sanction Motion (dkt. 32), Mr. Ure/Ure Firm's Opposition (dkt. 54), Maxim's Reply (dkt. 57)

Maxim Commercial Capital, LLC ("Maxim") seeks an order imposing sanctions against Mr. Ure and the Ure Firm for alleged violations of Rule 9011 (Fed. R. Bankr. P.).

(i) Background

As best as this Court can discern from its review of various pleadings filed in this case, the Sargsyan Bankruptcy Case, and the HDA Trucking Bankruptcy Case, the relevant facts are as follows:

On 4/7/16 Maxim made a loan to NAMR 2617, LLC ("Other-NAMR") in the sum of \$2,669,365 (the "Loan"). The Loan was personally guaranteed by Mr. Sargsyan and Alice and Nazaret Chakrian (the "Chakrians," and together with Mr. Sargsyan, the "Guarantors"). The Guarantors also executed a deed of trust securing their guaranties of the Loan against the Hedges Property.

On 12/30/16, Mr. Sargsyan recorded a Grant Deed conveying his interest in the Hedges Property to Nazaret Chakrian ("Mr. Chakrian") (dkt. 11, PDF p. 352-356). The parties subsequently executed a number of loan modifications and, ultimately, the Loan fully matured without timely payment. As a result, the Hedges Property was noticed for a judicial foreclosure sale on 4/5/19.

On 4/3/19 Mr. Sargsyan filed a voluntary chapter 7 petition and asserted a 25% ownership interest in the Hedges Property (Sargsyan Bankruptcy Case, 1:19-bk-10790-VK, dkt. 1, Schedule A/B). On 5/1/19 Maxim filed a motion for relief from the automatic stay with respect to the Hedges Property (the "Sargsyan R/S Motion," *id.*, dkt. 18). Mr. Ure, acting for Debtor Sargsyan, filed an opposition (*Id.*, dkt. 33, p.2:1-3), which did not argue that Debtor Sargsyan had any interest in the Hedges Property (contrary to what he had indicated in his bankruptcy schedules) but did argue that Mr. Sargsyan had "personally guaranteed the loan" with Maxim.

Following a hearing on the Sargsyan R/S Motion, the Bankruptcy Court entered an order denying the motion as moot based on the Court's finding that the Hedges Property was not property of Mr. Sargsyan's estate because

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Mr. Sargsyan had conveyed away his interest in the Hedges Property to Nazaret Chakrian ("Mr. Chakrian") pre-petition, on 9/30/16 (*see Id.*, dkt. 51, Ex. 1) (the "Sargsyan R/S Order"). After entry of the Sargsyan R/S Order, Maxim re-noticed a foreclosure sale for 8/2/19.

On 6/28/19, Mr. Sargsyan caused HDA Trucking to file a voluntary chapter 11 petition and assert an ownership interest in the Hedges Property (HDA Trucking Bankruptcy Case, 1:19-bk-11595-DS, dkt.1, Schedule A/B). According to Maxim, HDA Trucking has no such interest in the Hedges Property.

On 7/24/19, the United States Trustee (the "UST") filed a motion to appoint a trustee or convert or dismiss that case (*Id.*, dkt. 24). At the hearing on that motion, HDA Trucking stipulated to the dismissal of the case and the case was dismissed by order entered 7/31/19 (*Id.*, dkt. 27).

On 8/1/19 the instant bankruptcy case was filed by Debtor (which is similarly named, but not the same as, the Other-NAMR). Debtor asserts an interest in the Hedges Property pursuant to a Grant Deed recorded on 4/2/19 in which Mr. Chakrian conveyed a 10% interest in the Hedges Property to Debtor (dkt. 1, Schedule A/B & dkt. 11, PDF pp. 361-364).

Almost immediately after this bankruptcy case was filed, Maxim filed an emergency motion for relief from the automatic stay and this Court shortened time, reviewed briefs, heard arguments, made oral findings of fact and conclusions of law on the record, and issued an order that prevented any future bankruptcy case from affecting the Hedges Property (subject to the usual limitations on such relief). Dkt.36. But this Court declined to terminate the automatic stay at this time (*id.*) because, among other things, (A) other creditors' interests are at stake, (B) on the evidence presented Maxim's interests are fully adequately protected, and (C) Debtor may be able to restructure its finances in a manner that will benefit all parties in interest.

At that early hearing this Court suggested that a transfer of a fractional interest among related entities is not necessarily evidence of bad faith. This Court took judicial notice that debtors and their affiliates not infrequently engage transfers of fractional interests as a way to balance the accounts among them, or for other reasons that may be perfectly consistent with good faith, even if they violate provisions of loan documents or other obligations.

But this Court's unwillingness to suppose bad faith at the inception of this case, before adequate time to respond, should not be misconstrued as giving a blanket exemption from any subsequent finding of bad faith or other

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misconduct. This Court is troubled by some of the conduct outlined in Maxim's motion papers.

With this context, this Court turns to Maxim's motion for sanctions.

(ii) Maxim has not established that Judge Bason can or should impose sanctions under Rule 9011 for conduct that occurred in bankruptcy cases that are *not* before Judge Bason

As a preliminary matter, Maxim has not addressed whether it would be proper, or even within the jurisdiction of the instant bankruptcy case, for Judge Bason to impose sanctions regarding any cases that are not pending before Judge Bason. The Sargsyan Bankruptcy Case is still pending before Judge Kaufman, and the HDA Trucking Bankruptcy Case was pending before Judge Saltzman, and the tentative ruling is that any request for sanctions for conduct in those cases must be presented to those Bankruptcy Judges.

That is not to say that prior conduct in other cases is irrelevant. Such prior conduct may establish a pattern of conduct that extends into this case, or may otherwise shed light on the conduct in this case. But the tentative ruling is that Judge Bason will only consider sanctions regarding conduct in the instant bankruptcy case.

(iii) Maxim has not established misconduct in connection with the Sargsyan Bankruptcy Case

Maxim asserts - as part of its argument that Mr. Ure's conduct and the Ure Firm's conduct in this case is sanctionable - that there is a pattern of abuse starting with the filing of the Sargsyan Bankruptcy Case. The tentative ruling is that this assertion is not persuasive.

Nothing in Maxim's papers establishes that it was frivolous or otherwise improper for Mr. Ure and the Ure Firm to oppose Maxim's request for relief from the automatic stay in the Sargsyan Bankruptcy Case, in light of Debtor Sargsyan's position as a Guarantor. True, the automatic stay's protection against *in rem* acts generally extends only to property of the debtor (see 1:19-bk-10790-VK, dkt.51 (the Sargsyan R/S Order)); and the automatic stay's protection against *in personam* acts generally extends only to the debtor. See, e.g., *In re Advanced Ribbons and Office Prod's, Inc.*, 125 B.R. 259, 262-67 (9th Cir. BAP 1991) (guarantor, and guarantor's property, not protected). But Maxim has not cited any authority that it was frivolous for Debtor Sargsyan to take the position that acts to foreclose the Hedges Property, based on a debt he guaranteed, were acts "to collect, assess, or recover a claim against the debtor that arose before the commencement of

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the [bankruptcy] case" within the meaning of 11 U.S.C. 362(a)(6), if not based on existing caselaw then based on a nonfrivolous assertion regarding "extension, modification, or reversal of existing law or the establishment of new law." Rule 9011(b)(2). The tentative ruling is that there is nothing sanctionable in making this argument.

True, Mr. Sargsyan, Mr. Ure, and the Ure Firm should have been more careful in verifying that Debtor did in fact have an interest in the Hedges Property before Debtor Sargsyan said so, under penalty of perjury, in his bankruptcy schedules. And it would have been preferable for the Ure Firm to cite some authority for their position, or expressly argue for an extension of existing law or other nonfrivolous legal grounds, and to amend the bankruptcy schedules once the record ownership of the property became apparent.

But, given the transfers back and forth (described above), and the last-minute scramble that almost invariably precedes an emergency bankruptcy filing, it appears that the original misstatement of ownership in the bankruptcy schedules, and the lack of citation to legal authority in opposing the Sargsyan R/S Motion, are more consistent with a lack of adequate time than any intentional falsehood or misconduct. And once it became apparent that the automatic stay did not protect the property, it is understandable (although not the ideal course of action) to move on and not take the time to amend the bankruptcy schedules.

(iv) Maxim has established apparent misconduct in connection with the HDA Trucking Bankruptcy Case

Maxim asserts that HDA Trucking had no interest in the Hedges Property whatsoever, and yet falsely listed that property on its bankruptcy schedules. Dkt.32, p.7:5. The Ure Firm has not offered any explanation why, even after the incorrect assertion by Mr. Sargsyan of an ownership interest in the Hedges Property, it filed another bankruptcy case that, once again, asserted an ownership interest that is not supported by any evidence. The tentative ruling is that this is *prima facie* evidence of the Ure Firm's lack of "inquiry reasonable under the circumstances" and apparent filing of the petition for an improper purpose - namely a scheme to hinder, delay, or defraud Maxim. Rule 9011(b)(1).

Alternatively, the tentative ruling is that this is also *prima facie* evidence of a factual contention that, after "an inquiry reasonable under the circumstances," does not have "evidentiary support," or that has not been "specifically [] identified" as "likely to have evidentiary support after a

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reasonable opportunity for further investigation or discovery." Rule 9011(b) (3).

In the face of such *prima facie* evidence of a violation of Rule 9011, the burden was on Mr. Ure and the Ure Firm to present contrary evidence of at least equal weight. They have not done so.

Again, the tentative ruling is that this Court should not impose any sanctions for any alleged misconduct in the HDA Trucking Bankruptcy Case. But the apparent violations of Rule 9011 in that case establish a pattern that calls into question any allegedly similar conduct in the instant case.

(v) It is premature for this Court to determine whether the filing of the instant bankruptcy case, or how it has been prosecuted, is sanctionable under Rule 9011

On the one hand, the facts discussed above are evidence that Mr. Ure and the Ure Firm have participated in efforts to frustrate Maxim's exercise of its remedies, and have done so using tactics that appear to violate Rule 9011. It is possible that the transfer of a fractional interest to Debtor, and the filing of the instant bankruptcy case, are part of that scheme and are sanctionable.

On the other hand, it is also possible that the transfer of a fractional interest to Debtor was nothing more than an attempt retroactively to "unscramble the eggs" and have the record title to the Hedges Property reflect what Mr. Sargsyan, the Chakrians, and other affiliates all had intended to be the reality of their financial relationships. True, Mr. Ure and the Ure Firm have had an opportunity to present any such explanation, with supporting evidence, and they have failed to do so. But this Court is wary of imposing sanctions without providing them with an opportunity to explain why they did not offer an explanation in their opposition papers, and why they should be granted an opportunity to do so now.

In addition, depending on how this instant bankruptcy case progresses, it may become more apparent over time whether there is a reasonable possibility of a successful reorganization within a reasonable time, and other factors that might bear on whether this case was or was not filed in good faith. It is also possible that Debtor will obtain refinancing and pay Maxim in full, or that some other developments in this case will bear on issues such as whether Maxim has suffered any un-reimbursed expenses, all of which may be relevant to its sanctions motion.

For all of these reasons the tentative ruling is that it is premature for this Court to determine any sanctions issues, and the tentative ruling is to

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take Maxim's sanctions motion off calendar, and determine at a future status conference when it should be put back on calendar. Meanwhile, the tentative ruling is that no further briefing on the sanctions issues will be accepted or considered absent further order of this Court.

- (2) Deadlines/dates. This case was filed on 8/1/19.
- (a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).
 - (b) Procedures Order: dkt.9 (timely served, dkt.44)
 - (c) Plan/Disclosure Statement*: TBD
 - (d) Continued status conference: 10/15/19 at 1:00 p.m., *brief* status report due 10/4/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

(2) Deadlines/dates. This case was filed on 8/1/19.

- (a) Bar date: 12/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
- (b) Plan/Disclosure Statement*: N/A
- (c) Continued status conference: 9/26/19 at 1:00 p.m., no status report required.

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*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 9/10/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (DO NOT SERVE notice yet - *court will prepare an order after the status conference*).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/26/19 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

NAMR1726 LLC

Represented By
Thomas B Ure

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2:18-18929 Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/4/18, 10/9/18, 11/6/18, 12/11/18, 01/15/19,
2/26/19, 3/26/19; 04/30/19, 6/18/19

Docket 14

Tentative Ruling:

Tentative Ruling for 9/24/19:

Continue as set forth below, subject to lodging the proposed order indicated below. Appearances are not required on 9/24/19.

(1) Current issues

It appears from a review of the August MOR (dkt. 91) that the Debtor's sales have increased and operations are (barely) profitable, with hopes of future increases in profitability. The tentative ruling is that Debtor needs to establish a longer track record of profitability before any proposed plan could be shown to be feasible, and therefore this Court should continue this Status Conference without setting a deadline to file a proposed plan and disclosure statement.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18: not timely served, see dkt. 24, 35 & 41, but the tentative ruling is that no new bar date needs to be set because of the substantial time after the bar date with no party in interest having asserted prejudice and/or seeking to have an untimely claim allowed. Debtor is directed to lodge a proposed order memorializing that, for the foregoing reasons, this Court is excusing the untimely servicing of the bar date order.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 12/10/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... Newark Special Technologies, Inc. Dba Magorien Hon Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Newark Special Technologies, Inc.

Represented By
Joseph L Pittera

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2:18-22426 Edmond Melamed and Rozita Melamed

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#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19,
04/30/19, 06/04/19; 08/06/19

Docket 7

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances are not required on 9/24/19.

(1) Current Issues

(c) Settlement of Mazakoda's Inc.'s Claim

Debtors state (dkt.104) that they have engaged in settlement discussions with Mazakoda regarding its claim and are in the process of memorializing their agreement. The tentative ruling is to continue this matter to the date set forth below to allow time for the parties to finalize and obtain approval of any settlement.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/26/19 at 1:00 p.m. Brief status report due 11/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

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Appearances required.

Chapter 11

(1) Current Issues

(a) United States Trustee's Fees

The June Monthly Operating Report (dkt. 96, "June MOR") indicates that Debtors still owe \$650.00 in United States Trustee's fees for the quarter ending June 30, 2019. Dkt. 96 at 6. Have Debtors paid those fees?

(b) Select Portfolio Servicing Post-Petition Payments

The June MOR indicates that Debtors have not made any post-petition payments to Select Portfolio Servicing. Dkt. 96 at 4. Why not?

(c) Status of Valuation Motion or Settlement of Mazakoda's Inc.'s Claim

Debtors have stated that they intend to file a valuation motion and avoid Mazakoda's judgment lien or enter into a claim treatment stipulation. Dkt. 96 at 8. Debtors have not filed a valuation motion or a claim treatment stipulation.

The parties should be prepared to explain the status of dealing with Mazakoda's claim as this case has been pending since October 2018 and a chapter 11 plan has not been filed.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 9/24/19 at 1:00 p.m. Brief status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances are not required on 6/4/19.

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(1) Current issues

The Court has no issues to raise *sua sponte*.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/6/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances are not required on 4/30/19.

(1) Current issues

(a) Fee Application - Berger (dkt. 75)

Grant in the amount of \$24,777.50 in fees and \$680.61 in expenses, for a total of \$25,458.11, and authorize and direct Debtors to pay the balance owed after application of the retainer balance.

Proposed order: Debtor is directed to lodge a proposed order on the foregoing motion via LOU within 7 days after the hearing date.

See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 6/4/19 at 1:00 p.m. No written status report required.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

This status conference has been set pursuant to this Court's order (dkt. 6) and notice thereof (dkt. 14), pursuant to which status conferences are held concurrent with any other calendared proceeding. Appearances are not required on 4/9/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Grant, with an extension of the deadline for Mazakoda Inc to file a complaint objecting to dischargeability to 4/30/19. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). At the hearing on 3/26/19, counsel for Mazakoda appeared and informed this Court that it opposed the tentative ruling denying the motion for lack of prosecution, and that it had just received the recording/transcript on 3/22/19. Although Debtors' counsel was not notified of Mazakoda's intent to contest the tentative ruling (as required by the posted Procedures of Judge Bason, available at www.cacb.uscourts.gov), this Court was persuaded to continue this matter, as permissible under those same procedures. Mazakoda has now supplemented the Motion (dkt. 74), and based on that supplement the tentative ruling is that it is appropriate to extend the deadline.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

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(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

(1) Current issues

(a) Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Deny for lack of prosecution. After the parties filed their papers (dkt. 53, 63, 64) this Court continued this matter for Mazakoda to obtain a recording/transcript of the meeting of creditors (11 U.S.C. 341(a)). It has now had time to do so, and has not supplemented its motion.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling for 3/26/19, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/30/19 at 1:00 p.m. Status report due on 4/23/19.

*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 2/26/19:

Continue as set forth below. Appearances are not required on 2/26/19.

(1) Current issues

Mazakoda, Inc's Motion to Extend Time to Object to Dischargeability (dkt. 53). Until the transcript is received for the meeting of creditors (11 U.S.C. 341(a)), it is difficult to assess the issues raised in the opposition (dkt. 63) and reply (dkt. 64). The tentative ruling is to continue this hearing to the same time as the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Appearances required.

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(1) Current issues

(a) Mazakoda, Inc's Objections to Debtor's Claimed Exemptions (dkt. 45)

The tentative ruling is to set the Objection to Exemptions for hearing on 2/26/19 at 1:00 p.m. (to be concurrent with the motion to extend the deadline to object to Debtors' discharge) with the usual deadlines for any opposition and reply.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (Served on 12/5/18).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/26/19 at 1:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/5/19 at 1:00 p.m., *brief* status report due 2/1/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
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Tuesday, September 24, 2019

Hearing Room 1545

1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01135 Koi Design LLC v. Strategic Partners, Inc.

#11.00 Cont'd status Conference re: Complaint for
Avoidance of Judicial Liens and Declaratory
Relief
fr. 7/16/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling in the status conference in the main case
(calendar no. 12, 9/24/19 at 1:00 p.m.).

Tentative Ruling for 7/30/19:

Please see the tentative ruling in the status conference in the main case
(calendar no. 8, 7/30/19 at 1:00 p.m.).

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

Strategic Partners, Inc.

Represented By
Howard Camhi

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19, 5/14/19, 6/11/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required. There is no tentative ruling. As of the time this tentative ruling has been prepared, the docket does not reflect the outcome of the mediation between Debtor and its major creditor Strategic. The parties should be prepared to address that issue, and what course they anticipate going forward.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

Appearances are not required.

(1) Current Issues

(a) Debtor's motion to further extend exclusivity period (dkt. 195)

Grant, extending Debtor's deadline to 12/21/19 to file the plan, and to 2/19/20 to gain acceptance of the plan.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19, dkt. 82).

(b) Plan/Disclosure Statement*: See above re deadlines. Debtor must use the forms required by Judge Bason, unless excused (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set

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CONT...

Koi Design LLC

Chapter 11

a deadline and procedures at a later time).

(c) Continued status conference: 9/24/19 at 1:00 p.m. (to be concurrent with other matters in this case), no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Sefflin
Jessica L Bagdanov

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2:19-18316 Ashley Susan Aarons

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See # 21 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

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1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 case
fr. 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Missing status report

As of the time this tentative ruling has been prepared, no status report is on file. Why Not?

(b) Missing budget motion

At the 8/20/19 status conference this Court directed the Debtor to file a budget motion. As of the time this tentative ruling has been prepared, the docket does not reflect that the Debtor has complied. Why not?

(c) Cash collateral

At the 8/20/19 status conference, this Court expressed serious concerns about Debtor's possible use of cash collateral without the consent of its lender. What is the status of the Debtor's negotiations with its lender re cash collateral?

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/29/19 at 1:00 p.m., *brief* status report due 10/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... **FAME Assistance Corporation, a Non Profit Corp.** Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Service of order setting principal status conference

This Court's order setting principal status conference (dkt. 2) required Debtor to serve this order on all parties in interest and file a proof of service at least 14 days before the principal status conference. As of the drafting of this tentative ruling, the docket does not reflect such service. Was the order served?

(b) Missing budget motion

Debtor's status report states that Debtor has not yet filed a budget motion but "will do so if necessary." Dkt. 11 at p.3. Per the posted Procedures of Judge Bason (available at cacb.uscourts.gov), budget motions are required in all Chapter 11 cases.

(c) Cash collateral

Debtor indicates that it will meet and confer with its lender re cash collateral. Dkt. 11 at p.3. What is the status of those negotiations?

Pending lender approval, how has Debtor continued to operate its business since filing? Has Debtor been using cash collateral without authorization? Has Debtor been holding the rent money it has received in a separate account?

(d) Interim arbitration award

Debtor should be prepared to apprise the court of the details surrounding the interim arbitration award, including the nature of the dispute, how Debtor intends to contest the award, and what approach to the award is in the best interests of creditors.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (DO NOT SERVE notice yet - court will prepare

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CONT...

FAME Assistance Corporation, a Non Profit Corp.
an order after the status conference).

Chapter 11

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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Hearing Room 1545

1:00 PM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#15.00 Cont'd Status Conference re: Removal
fr. 2/5/19, 4/9/19; 04/30/19, 05/21/19, 06/04/19,
7/2/19, 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 18, 9/24/19 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

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CONT... Finnian Osakpamwan Ebuehi

Chapter 11

DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By

Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By

Joseph P Buchman

Richard J Reynolds

Rafael R Garcia-Salgado

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#16.00 Cont'd hrg re: Motion for Leave to File Cross-Complaint
fr. 04/30/19, 05/21/19, 06/04/19, 7/2/19, 8/20/19

Docket 16

***** VACATED *** REASON: Already determined (adv. dkt. 47, 55, 56).**

Tentative Ruling:

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Movant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#17.00 Cont'd hrg re: Motion for Summary Judgment
fr. 04/30/19, 05/21/19, 06/04/19, 7/2/19, 8/20/19

Docket 13

*** VACATED *** REASON: Already determined (adv.dkt. 47, 55, 56)

Tentative Ruling:

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Movant(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#18.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19, 4/9/19;
04/30/19, 05/21/19, 06/04/19, 7/2/19, 8/20/19

Docket 26

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances are not required.

(1) Current issues. This Court has reviewed the Debtors' Status Report (dkt. 132) and the Response filed by Poser Investments, Inc. ("Poser") (dkt. 133).

(a) OSC re Conversion, Dismissal or Appointment of Chapter 11

Trustee

At the start of this case, this Court issued an Order putting all parties on notice that "[w]ithout further notice this Court . . . may issue appropriate orders including on: . . . (b) case disposition (e.g., appointment of a trustee, conversion, dismissal" Dkt. 25, p. 1-2. That order was served on all parties in interest. Dkt.48.

Poser requests that this Court issue an Order to Show Cause ("OSC") directing the Debtor to appear and show cause why this Court should not convert, dismiss or appoint a chapter 11 trustee in this case. The tentative ruling is to issue such an OSC, and direct Poser to serve that OSC and a copy of Poser's response (dkt.133) on all creditors listed in the creditor mailing matrix, as a "belt and suspenders" notice to all interested parties that this Court is considering granting such relief. This Court will prepare the OSC with a hearing date of October 15, 2019 at 1:00 p.m. to be heard concurrently with other matters on calendar for that date.

(b) Mediation

The tentative ruling is not to issue any further orders regarding mediation or other settlement efforts at this point - the parties remain free to engage in voluntary discussions.

(c) Poser Investments, Inc. v. Ebuehi et al. (Adv. No. 2:18-ap-01431-

NB)

This Court has issued its decision, its order denying

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CONT... **Finnian Osakpamwan Ebuehi and Elizabeth Olohirere** **Chapter 11**

Debtors/Defendants' counterclaim motion, and its judgment in favor of Poser Investments, Inc. See adv.dkt.47, 55, 56. Debtors have stated their intention to appeal and Poser has stated its intention to file motions for relief from the automatic stay and for attorney fees and costs. The tentative ruling is to continue the status conference in the adversary proceeding to the same date and time as the continued status conference in the bankruptcy case.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conferences (bankruptcy case and Poser v. Ebuehi): 10/15/19 at 1:00 p.m. No status reports are required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:00 PM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#1.00 Cont'd hrg re: U.S. Trustee Motion to dismiss or convert case
fr. 8/20/19

Docket 183

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the status conference (calendar no. 2,
9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 17,
8/20/19 at 1:00 p.m.).

Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

Movant(s):

United States Trustee (LA)

Represented By

Dare Law

Kelly L Morrison

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2:16-15136 Glynder Lucas Striggs

Chapter 11

#2.00 Cont'd Status Conference re: Post Confirmation
fr. 5/31/16, 7/19/16, 9/13/16, 11/8/16, 1/10/17, 02/28/17,
4/11/17, 5/23/17, 6/20/17, 8/8/17, 8/15/17, 11/14/17,
02/13/18, 7/10/18, 9/18/18, 12/11/18, 5/7/19; 08/06/19,
8/20/19

Docket 6

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required. There is no tentative ruling on the United States Trustee's Motion to Dismiss or Convert (dkt. 183), but the parties should be prepared to discuss whether the Debtor has cured all outstanding compliance issues.

If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 11/26/19 at 1:00 p.m., with no Status Report required (but with the usual postconfirmation report(s) required).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required. There is no tentative ruling on the United States Trustee's Motion to Dismiss or Convert (dkt. 183), but the parties should be prepared to address the issues raised in that motion and the Debtor's response (dkt. 188).

If this case is not dismissed or converted, the tentative ruling is to continue this status conference to 10/29/19 at 1:00 p.m., with no Status Report required (but with the usual postconfirmation report(s) required).

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CONT... Glynder Lucas Striggs

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

Continue to 8/20/19 at 1:00 p.m. to be heard in conjunction with the United States Trustee's Motion to Dismiss or Convert (dkt. 183). Appearances are not required on 8/6/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues. This Court has reviewed the docket. The parties should be prepared to address the status of the case and when it will be ready for a final decree.

(2) Deadlines/dates. Continue to 7/30/19 at 1:00 p.m. (no written status report required; and will go off calendar if a final decree has been issued before that time).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Glynder Lucas Striggs

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18 (same as for 9/18/18):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The docket does not reflect any activity. What is the status of this case, and when will it be ready for a final decree?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 7/10/18:

Continue as set forth below. Appearances are not required on 7/10/18.

(1) Current Issues. This Court has reviewed debtor's status report (dkt. 154, 156) and other relevant pleadings in this case. This Court has no issues to raise sua sponte at this time.

(2) Deadlines/dates. Continue to 9/18/18 at 1:00 p.m. (no written status report required; and will go off calendar if a final decree has been issued before that time).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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2:00 PM

CONT... Glynder Lucas Striggs

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 2/13/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties should be prepared to address any issues appropriate for resolution at this post-confirmation status conference. The tentative ruling is to set a continued status conference for 7/10/18 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

Continue to 2/13/18 at 1:00 p.m. in view of the debtor's post-confirmation status report (dkt. 142). Appearances are not required on 11/14/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/15/17:

Appearances required. The debtor's counsel should be prepared to address the issues set forth below.

Proposed order: If this court is persuaded to adopt this tentative ruling, then counsel for the debtor is directed to serve and lodge proposed orders (a) approving the disclosure statement (dkt. 101) on a final basis and (b) confirming the plan (dkt. 102), all as amended by the stipulation with class 2A (dkt. 127, 128). Those proposed orders must be lodged via LOU within 7

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CONT... Glynder Lucas Striggs
days after the hearing date.

Chapter 11

(1) Ballot Summary. The debtor's ballot summary (dkt. 131) appears to be inaccurate and internally inconsistent. Although the ballots and stipulation attached to the ballot summary show acceptance by 100% in both dollar amount and number of the claims actually voted or deemed to have been voted in classes 2A, 2B and 4A, and no vote by Class 2C, the ballot summary makes assertions that are not consistent with those ballots, namely:

(a) Cramdown: The ballot summary asserts that the debtor is not requesting cramdown (dkt. 131, item 3), even though the lack of an affirmative vote in class 2C means that the debtor does not satisfy 11 U.S.C. 1129(a)(8) and therefore must seek cramdown under 11 U.S.C. 1129(b);

(b) Accepting classes: The ballot summary asserts that only class 4A has voted to accept the plan (dkt. 131, item 6), even though classes 2A and 2B have also accepted the plan; and

(c) Page 2 of the Ballot Summary: The chart on page 2 of the ballot summary (dkt. 131, p.2, top line of chart) fails to show that Class 2A has accepted the plan by 100% in number of claims deemed to have been voted (not just 100% in amount). In addition, it would have been helpful if the ballot summary's "Comments" following that chart had explained that (i) Portfolio Recovery Associates is Class 2C (even though it is listed as LA County Tax Collector in the Plan), (ii) U.S. Bank is Class 2A (even though it is listed as Wells Fargo in the Plan), and (iii) Class 2A is deemed to have voted in favor of the plan under its court-approved stipulation, even though it did not actually cast a ballot. (If any of the foregoing is incorret then counsel for the debtor must correct those issues at the hearing.)

(2) Status report

The debtor's status report (dkt. 130) misleadingly asserts that this court's order (dkt. 106) previously approved the disclosure statement (dkt. 101), whereas in fact this court only granted preliminary approval for purposes of this combined hearing on whether to approve the disclosure statement (dkt. 101) and confirm the plan (dkt. 102).

(3) Confirmation. Notwithstanding the foregoing, it appears that the debtor's disclosure statement (dkt. 101) should be approved, and that the chapter 11 plan (dkt. 102), as amended by the debtor's stipulation with the holder of the

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class 2A claim (dkt. 127, 128), has met the requirements for confirmation under 11 U.S.C. 1129(a) & (b).

(4) Correction. This court notes that the tentative ruling for 6/20/17 (reproduced below) was in error in asserting that "[at] the status conference on 5/23/17 this court set a deadline of 6/6/17 to file an amended plan and disclosure statement." In fact, this court was persuaded at that status conference not to impose that deadline.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/20/17:

Continue to 8/8/17 at 1:00 p.m. (without the need for any written status report), but impose sanctions of \$200 on counsel for the debtor, for the reasons set forth below. Appearances are not required on 6/20/17.

At the status conference on 5/23/17 this court set a deadline of 6/6/17 to file an amended plan and disclosure statement. On 6/15/17, after this court had already prepared a tentative ruling for this status conference, counsel for the debtor filed a stipulation (dkt. 117) and lodged a proposed order for yet another continuance of the confirmation hearing. At no point did counsel telephone chambers to suggest that counsel expected or was attempting to arrange for such a continuance. Moreover, as set forth in the tentative rulings reproduced below, this case has a long history of missed deadlines, last minute filings, and deficient documents.

This court recognizes that to a large extent counsel cannot control delays by a debtor and debtor in possession, and not infrequently a debtor is simply incapable of meeting all of the debtor's obligations. Nevertheless, this court has noted that counsel of record in this case has a pattern, in this and other cases (e.g., *In re Barragan*, 2:15-bk-29156-NB), of filing late and inadequate documents, and that pattern is not matched by the vast majority of other counsel who appear before this court. All of that strongly suggests that counsel bears some responsibility for those deficiencies, and that imposes substantial burdens on this court, the U.S. Trustee, and any other parties in interest who may be monitoring or involved in such bankruptcy

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cases. The tentative ruling is that this warrants sanctions under this court's inherent powers and 11 U.S.C. 105. Counsel is also cautioned that this court anticipates issuing similar or increased sanctions if this pattern continues in other cases in future.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/23/17:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The ballot summary was due 5/16/17 but was not filed until 5/22/17 at 4:12 p.m. In addition, it is internally inconsistent. What remedies are appropriate?

The plan (dkt. 102) has not been accepted by any class. This is the debtor's second bankruptcy case, and it has been pending for over a year. The debtor's lack of progress for that long a period of time suggests a willful delay. Should this court dismiss or convert this case? Should this court impose a bar against being a debtor in bankruptcy for the third time in a row?

(2) Deadlines/dates. This case was filed on 4/20/16. If this case is not dismissed or converted, the tentative ruling is to hold a continued status conference on 6/20/17 at 1:00 p.m. with a deadline of 6/6/17 to file (but NOT serve) yet another amended plan and disclosure statement.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/23/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/11/17:

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Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) UST compliance and adequate protection payments. What is the status?

(b) Plan (dkt. 101) and Disclosure Statement (dkt. 102). 4/14/17 deadline to lodge Judge Bason's form of order authorizing service of the voting package, setting deadlines, and setting a combined hearing on final approval of the Disclosure Statement and confirmation of the Plan for the same time as the continued status conference.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: See above.

(c) Continued status conference: 5/23/17 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 2/28/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) U.S. Trustee notice of non-compliance. Has the debtor cured the reporting delinquency noted by the U.S. Trustee regarding lack of insurance (dkt. 94)?

(b) Adequate protection payments. At the hearing on 1/10/17 counsel for the debtor assured this court that the debtor had cured the postpetition delinquency in adequate protection payments. But the monthly operating report for January 2017 (dkt. 95, filed 2/7/17, at p.4) continues to list 4 missed

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payments for a total of \$6,972 delinquency. What was the basis for counsel's misrepresentation to this court? Should this court require counsel and the debtor to testify on that issue, and on the prospects for future income, before this court can find that the plan is feasible (11 U.S.C. 1129(a)(11))? Should this misrepresentation have any other consequences?

(c) Plan (dkt. 82) and Disclosure Statement (dkt. 81). The debtor's ballot summary was due to be filed no later than 2/21/17 (dkt. 89). Instead the debtor's counsel has filed a declaration (dkt. 96) asserting that a ballot in favor of the plan has been received by class "6b," even though no such class is listed in the plan (see dkt. 82, Ex.A), and requesting more time to receive ballots from classes 2a and 2b, even though the deadline for ballots has passed. The parties should be prepared to address how best to proceed in these circumstances.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement (dkt. 82, 81): See above.

(c) Continued status conference: 4/11/17 at 1:00 p.m.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/10/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Payments to secured creditor Wells Fargo. The debtor's November 2016 MOR reflects that the debtor has **not** made 4 monthly payments to secured creditor Wells Fargo. See dkt. 84, PDF p. 7. Is that accurate, or did

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the debtor intend to state that those payments were made?

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement (dkt. 82, 81): The tentative ruling is to set the following deadlines: 1/17/17 to file (NOT SERVE - except on the U.S. Trustee) any redlined revisions to be discussed at the status conference and to lodge Judge Bason's form of order authorizing service of the relevant documents and setting deadlines; and 2/28/17 at 1:00 p.m. for the combined hearing on approval of the Disclosure Statement and confirmation of the Plan (with the court to set typical deadlines for objections etc.).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 2/28/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/8/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Amended Chapter 11 Plan and Disclosure Statement (dkt. 74, 75).

There are issues with these documents which this Bankruptcy Court will review orally at the hearing.

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(b) Monthly operating reports. The debtor's court approved budget (dkt. 19) and the budget attached to her amended chapter 11 disclosure statement (dkt. 74, PDF p. 13) show various typical monthly expenses such as transportation costs, utilities, and food. The expenses included in her budgets submitted to this court are either not reflected in her MORs for August and September 2016 (dkt. 65 and 73, respectively) or are reflected, but in much smaller amounts than budgeted. Is the debtor reporting all of her monthly expenses in her MORs? If not, why not?

Additionally, the MORs appear to reflect that the debtor is receiving less than her budgeted monthly income (\$1,800/mo.) from her job as a real estate professional. In August 2016, the debtor reported receipts of \$970.01; in September 2016, receipts of \$1,000.

Based on the reporting in the debtor's two most recent MORs, this court is concerned that the debtor may not have sufficient disposable income with which to fund her proposed chapter 11 plan.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: Deadline of 12/6/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 1/10/17 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/13/16:

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

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(a) Chapter 11 Plan and Disclosure Statement (dkt. 59, 58). There are numerous issues with these documents, which this Bankruptcy Court will review orally at the hearing.

(b) Orders on budget and cash collateral motions. On July 19, 2016, this court held continued hearings on the debtor's motion for use of cash collateral (dkt. 18) and budget motion (dkt. 19). The motions were granted on a final basis, and the court's adopted tentative ruling directed the debtor to lodge proposed orders on those motions within seven days of the hearing date. This court has reviewed the case docket and its pending lodged orders, and it appears no such orders have been lodged.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (timely served, dkt. 39)

(b) Plan/Disclosure Statement: Deadline of 10/11/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/19/16:

Appearances are not required on 7/19/16.

(1) Current issues.

(a) Cash collateral motion (dkt. 18). Grant on a final basis, on the same terms set forth in this court's order granting interim use of cash collateral (dkt. 37).

(b) Budget motion (dkt. 19). Grant on a final basis.

The debtor must lodge proposed orders on each of the foregoing motions within seven days.

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(2) Deadlines/dates. This case was filed on 4/20/16

(a) Bar date: Bar date: 7/29/16 (timely served, dkt. 39).

(b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/13/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/31/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 23).

(a) Prior failed case. The debtor's prior case (no. 2:14-bk-14065-NB) was a chapter 13 case that was dismissed because of plan infeasibility due to the objections by Wells Fargo, and claims by the IRS, FTB, and L.A. County Tax Collector.

(b) Debtor's real property

(i) Inconsistent rental income amount. This Court notes that the debtor's amended schedule G reflects a monthly rental of \$2,200 (dkt. 13, p.10), which was originally listed as \$1,500 per month (dkt. 1, p.36). However, the debtor's original schedule I originally listed the debtor's net income from rental property as \$2,400 (dkt. 1, p.39). The

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debtor's amended schedule I now lists net income from rental property as \$2,200 (dkt. 13, p.12). Although the rental income now appears to be consistent at \$2,200, and schedule G reflects the same lessee, Smark Lyles, is this the correct amount?

(ii) Schedule I. Part 8.a. requires that the debtor attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income.

(iii) Motion to Value. The debtor's status report indicates that the debtor intends to file a motion to value the real property. When does the debtor anticipate filing the motion to value?

(c) UST compliance. The United States Trustee has filed a motion to dismiss or convert (dkt. 24). Although the matter has been set for hearing on 6/21/16, the debtor should be prepared to address more generally, why this case in chapter 11 instead of chapter 13. It appears that the debtor is within the debt limits for chapter 13, and chapter 11 typically is far more expensive, so it seems doubtful that the debtor needs or can afford a chapter 11 case.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 23, p.4) but this Court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

(c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

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2:19-11809 Schaefer Ambulance Service, Inc and Marlene McNeal

Chapter 11

#3.00 Hrg re: Second Motion for Order (1) Extending Debtors Exclusivity Period for Filing and Gaining Acceptance of a Plan of Reorganization, And (2) Extending Debtors Period to Assume or Reject Unexpired Leases of Non-Residential Real Property

Docket 345

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5, 9/24/19 at 2:00 p.m.).

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#4.00 Hrg re: Motion For Sale of Property of the Estate under Section 363(b) - No Fee Debtors Motion for Entry of an Order: (1) Authorizing the Sale of Real Property Located at 740 S. Atlantic Avenue, Los Angeles, California, Free and Clear of Liens and Interests; (2) Approving Overbidding Procedure; (3) Authorizing Payment of Real Estate Brokers Commission and Ordinary Costs of Sale; and (4) Finding Purchaser Is a Good Faith Purchaser

Docket 360

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5, 9/24/19 at 2:00 p.m.).

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

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#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required.

(1) Current issues

(a) Debtor's second motion to extend exclusivity period and extend period to assume/reject leases (the "Extension Motion," dkt. 345)

Grant - *i.e.*, (i) extend Debtor's exclusive right to file a plan of reorganization and gain acceptance of a plan of reorganization to and including 12/1/19 and 3/1/20, respectively, and (ii) extend the period in which Debtor may assume or reject unexpired leases of non-residential real property to and including 12/1/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Motion to Sell 740 South Atlantic Avenue, Los Angeles, CA free and clear (dkt. 360)

Subject to any opposition (due 9/20/19@noon), the tentative ruling is to grant the motion, subject to (i) any overbids at the hearing, and (ii) if there are overbidders, subject to the filing of a "good faith" declaration (11 U.S.C. 363(m)) by the winning bidder that substantially complies with Judge Bason's posted procedures (available at cacb.uscourts.gov).

The tentative ruling is that the good faith declaration of one of the proposed purchasers, Farshad Azizi (dkt. 362), is sufficient if they are the winning bidder and as to his co-purchaser, Roya Azizi (despite her failure to sign the declaration and that any representations made on her behalf are hearsay).

Proposed order: Movant is directed to lodge a proposed order via LOU

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within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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- (2) Deadlines/dates. This case was filed on 2/20/19.
(a) Bar date: 6/17/19 (timely served, dkt. 129).
(b) Plan/Disclosure Statement*: TBD
(c) Continued status conference: 11/5/19 at 2:00 p.m., *brief* status report due 10/22/19.
*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:
Appearances required.

- (1) Current issues
(a) Motion to Sell 212 E Pomona Ave, Monrovia, CA free and clear (dkt. 317)
Grant the motion, subject to (i) any overbids at the hearing, and (ii) if there are overbidders, subject to the filing of a "good faith" declaration (11 U.S.C. 363(m)) by the winning bidder that substantially complies with Judge Bason's posted procedures (available at cacb.uscourts.gov), and (iii) the terms set forth in Cathay Bank's response (dkt. 325).
The tentative ruling is that the good faith declaration of one of the proposed purchasers, Paula T. Li (dkt. 321), is sufficient if they are the winning bidder and as to her co-purchaser, Eric C. Hung (despite his failure to sign the declaration and that any representations made on his behalf are hearsay).

- (2) Deadlines/dates. This case was filed on 2/20/19.
(a) Bar date: 6/17/19 (timely served, dkt. 129).

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Debtor's motion for TRO and/or alleged automatic stay violation in removed action (the "TRO Motion," 2:19-ap-01149-NB, dkt. 10), Cathay Bank's opposition (adv. dkt. 18), Debtor's reply (adv. dkt. 19), and McNeal defendants' joinder (adv. dkt. 21)

Grant in part and deny in part, as set forth in the tentative ruling for calendar no. 4 (8/6/19 at 2:00 p.m.).

(b) TCF Equip. Finance, Inc.'s emergency motion (dkt. 310) to modify order (dkt. 291) re sale of personal property

This Court has provisionally authorized TCF to present this matter on 8/6/19 at 2:00 p.m., based on a telephonic request pursuant to LBR 9075-1(a). The first issues this Court will address are (i) whether TCF has served whatever parties are appropriate, in sufficient time, and (ii) whether shortening time is appropriate. If so, this Court will address the merits of whatever TCF is requesting.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required.

(1) Current Issues

(a) Debtor's Motion to Sell Gale Property Free and Clear (dkt. 294)

Grant the motion, subject to (i) the requirements in Cathay Bank's response (dkt. 304) (proceeds are subject to its lien under cash collateral order, to be held in segregated DIP account pending further order of this Court); (ii) any opposition and any overbids at the hearing (see OST, dkt. 297), and (iii) if there are overbidders, subject to the filing of a "good faith" declaration (11 U.S.C. 363(m)) by the winning bidder that substantially complies with Judge Bason's posted procedures (available at cacb.uscourts.gov). See *id.* The tentative ruling is that the good faith declaration of one of the proposed purchasers (dkt. 305) is sufficient if they are the winning bidder.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 8/20/19 at 2:00 p.m., no status report

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*Warning: special procedures apply (see order setting initial status conference).

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Tentative Ruling for 6/18/19:

Continue this status conference as set forth below. Appearances are not required on 6/18/19.

(1) Current issues

(a) Debtor's motion to extend exclusivity period and extend period to assume/reject leases (the "Extension Motion," dkt. 239)

Grant - *i.e.*, (i) extend Debtor's exclusive right to file a plan of reorganization and gain acceptance of a plan of reorganization to and including 9/1/19 and 12/1/19, respectively, and (ii) extend the period in which Debtor may assume or reject unexpired leases of non-residential real property to and including 9/1/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 7/30/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 6/4/19:
Appearances required.**

(1) Current issues

(a) Application to employ real estate broker (dkt. 164)

Subject to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property (see Cathay Bank Obj., dkt. 243, at pp.6:25-7:6), the tentative ruling is to grant the application to employ real estate broker. The tentative ruling is to overrule Cathay Bank's other objections.

(i) Alleged lack of disinterestedness

Although Cathay Bank's supplemental opposition (dkt. 243) argues that the proposed broker, Standard Mortgage, Inc. dba Standard Realty ("Broker") is not "disinterested," and therefore is not eligible for employment under 11 U.S.C. 327(a), the tentative ruling is that this objection is not persuasive. True, an independent contractor with Broker, Mr. Akbari (who previously stated that he was an "employee" of Broker), is married to the sister of the wife of one of Debtor's officers/control persons. Cathay Bank cites authority that, under California law, being a brother-in-law is equivalent to being a brother, so the tentative ruling is that Mr. Akbari is a "relative" of an "officer" or "person in control" of Debtor and therefore he is an "insider." See 11 U.S.C. 101(45) (a "relative" means an "individual related by affinity or consanguinity within the third degree as determined by the common law"); 101(31)(B)(vi) (insider includes a "relative of a ... officer, or person in control of the debtor"). But that does not mean that Broker is an insider.

It also appears to be true that Debtor has not been as forthcoming with the connections between Broker and Debtor as would have been advisable, including both the familial relationships noted above and the recent discovery that Mr. Akbari "was the listing agent on the Cabrillo Street Property (during the *nunc pro tunc* timeframe in which the Broker is sought to be

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employed)" Cathay Bank Obj. dkt. 243, p.3:4-6 & Warrington Decl., Ex.1. Finally, as noted in the tentative ruling for 5/21/19, part (1)(b) (reproduced below), the statutory list of insiders "includes" but is not limited to the listed examples (see 11 U.S.C. 102(3)) and in addition this Court notes that a professional must be not only "disinterested" but also must not "hold or represent an interest adverse to the estate." 11 U.S.C. 327(a).

But the tentative ruling is that the facts recited above do not disqualify Broker from employment. A different real estate agent will be handling this matter (Mr. Ahmadi, dkt. 234); there is no evidence that Mr. Ahmadi or Broker itself has any incentive to act in any way adverse to the bankruptcy estate; and the failures to provide disclosure of every arguable "connection" between Broker and Debtor (within the meaning of Rule 2014, Fed. R. Bankr. P.) is unfortunate but understandable given the attenuated nature of the connections (Debtor's officer's wife's sister's husband originally was the listing agent for Broker on one of the four properties to be sold).

(ii) Alleged issues with 4.5% commission

Cathay Bank argues that Debtor has failed to justify a 4.5% commission; but to the contrary, the tentative ruling is that in general this Court should give deference to Debtor's business judgment, and that even without such deference Debtor has provided sufficient evidence that a 4.5% commission is appropriate (see dkt. 234) (Declaration regarding typical commission for commercial properties being 4-6%, and for residential properties 5-6%). Cathay Bank has provided no evidence to the contrary. Nor has Cathay Bank cited authority that Debtors are required to "shop around" for the lowest commission (which might not be the best broker) prior to selecting a broker, especially given that the proposed Broker has agreed to a slightly reduced commission from what is typical (see *id.* at 3).

(iii) Alleged lack of qualifications re industrial property

The tentative ruling is that although there may be conceptual differences between "industrial" and "commercial" properties, Cathay Bank has not established that any such difference is meaningful in the context of this case and the properties at issue.

(iv) Conclusion as to Broker

The tentative ruling is to grant the application and authorize Broker's employment subject, again, to an adequate explanation regarding the value/price discrepancy for the Atlantic Blvd. Property. See Cathay Bank Obj., dkt. 243, at pp.6:25-7:6.

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Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this portion of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

- (2) Deadlines/dates. This case was filed on 2/20/19.
- (a) Bar date: 6/17/19 (timely served, dkt. 129).
 - (b) Plan/Disclosure Statement*: TBD
 - (c) Continued status conference: 6/18/19 at 2:00 p.m., no status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19.

(1) Current issues

(a) Debtor's counsel's fee application (dkt. 175, 177)
Allow \$145,683.50 in fees and \$5,714.10 in expenses for a total of \$151,397.50, and authorize draw down of the retainer (\$124,846.70 remaining), with the balance of the fees and expenses to paid from the estate.

Cathay Bank's response (dkt. 207) does not object to allowance of the fees but seeks to reserve all rights it might have regarding a purported lien on some of the retainer. Debtor's reply (dkt. 215) asserts that the bank has no such rights to reserve because it has been given a replacement lien on the real estate.

This Court's recollection is that the bank did not entirely waive such

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rights at the hearing on 5/7/19, but did indicate that it was no more going to seek disgorgement from Debtor's firm (of authorized postpetition distributions from the retainer account) than it would seek disgorgement from one of Debtor's utilities (of authorized postpetition utility payments). In any event, whatever the parties' interpretations of the representations on 5/7/19, the issue is too remote for either party to be expending any substantial attorney fees on it at this time.

Cathay Bank has its security interest in the accounts receivable that existed as of the petition date, and it has replacement liens in ongoing accounts receivable. Debtor believes the bank will be paid in full out of those things. But as adequate protection (11 U.S.C. 361, 363(e) & 552(b)) the bank has replacement liens in Debtor's real estate - to cover both (i) any diminution in the value of its security interest in the accounts receivable as of the petition date and (ii) any diminution in the value of its purported security interest in the retainer as of the petition date. Therefore the bank's and Debtor's rights are both reserved, and neither party should be spending much time on this issue. Any attorney fees spent arguing about this issue are subject to this Court's review for reasonableness (under 11 U.S.C. 330 and 331 for Debtor's counsel, and under 11 U.S.C. 506(b) for Cathay Bank's counsel).

(b) Application to employ real estate broker (dkt. 164)

The tentative ruling is, with one exception, to overrule the objection of Cathay Bank (dkt. 199), based on Debtor's reply (dkt. 214). The exception is that, although Debtor has presented evidence of the reasonableness of the broker's proposed commission and experience, and this Court generally should defer to Debtor's business judgment, Cathay Bank makes a good point that the real estate at issue ranges broadly from a single family residence to commercial property etc., and there is insufficient evidence of the proposed broker's specific experience as to each type of real estate. The tentative ruling is to set a **deadline of 5/24/19** for Debtor to file and serve a supplemental declaration detailing such experience, with a **deadline of 5/29/19** for any supplemental objection by Cathay Bank, and a continued hearing (if there is any such objection) concurrent with the continued status conference (see below).

As for disinterestedness (11 U.S.C. 101(14), 327(a)), Cathay Bank argues that the broker is not disinterested because, from the information on the docket, it appears that one of its alleged employees (Mr. Akbari) is a

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relative by marriage of one of Debtor's principals, and the principals are beneficiaries of a trust that engaged in prepetition transactions with Debtor that, according to the bank, violated Debtor's covenants with the bank. On the one hand, it is true that Mr. Akbari previously declared that he was "employed" by the broker (dkt. 77, p.1:22).

On the other hand, this Court interprets that as an (unfortunately) imprecise description of his arrangement as an independent contractor. Alternatively, even if he is an employee, this Court is not persuaded that this disqualifies the broker from employment by the estate.

Mr. Akbari apparently is married to the sister of the wife of one of Debtor's officers/control persons. The tentative ruling is that this makes him related "by affinity or consanguinity" within the fourth degree (1.officer - 2.spouse - 3.sister of spouse - 4.Mr. Akbari), so he is not a "relative" within the meaning of 11 U.S.C. 101(45) and therefore he is not an "insider" within the meaning of 11 U.S.C. 101(31)(B)(vi) or (E). That is not dispositive, because, the statutory list of insiders "includes" but is not limited to the listed examples. See 11 U.S.C. 102(3). But the tentative ruling is that the connection has been sufficiently disclosed (Rule 2014, Fed. R. Bankr. P.) and is not disqualifying.

In practical terms, this Court does not perceive that any alleged ties between the proposed real estate broker and Debtor's principal creates any incentive to lessen the price obtained for the real estate, or otherwise prejudice the interests of the bankruptcy estate. Accordingly, the tentative ruling is to approve the employment, subject to satisfactory supplemental evidence as set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: The tentative ruling is to vacate any deadline to file a proposed plan and disclosure statement, given the current posture of this case.

(c) Continued status conference: 6/4/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 5/7/19:
Appearances required.**

(1) Current issues

(a) Employment of bankruptcy counsel (dkt. 83)

The tentative ruling is to authorize Debtor's bankruptcy counsel (whose employment has already been approved except for the retainer issue), to draw down on the retainer as otherwise permitted (e.g., after allowance of fees in the forthcoming interim fee application), without deciding at this time whether Cathay Bank does or does not have a traceable security interest in the retainer. Instead the tentative ruling is to grant the Bank a replacement lien, in the full amount of the Bank's disputed lien on the retainer, on Debtor's real estate (to the extent, if any, that the Bank's existing replacement lien does not already apply). That replacement lien would be subject to the same limitations on validity, priority, and amount as this Court has ordered with respect to cash collateral (see dkt. 71).

Reasons: Given the Bank's current debt of approximately \$3.1 million (see dkt. 156, p.5:15-21), and the equity in the real estate of approximately \$4 million (see id., p.6:4-11), such a replacement lien appears fully sufficient to provide adequate protection. Meanwhile, any further litigation over the retainer issue appears unnecessary and potentially wasteful and distracting from the other, important issues in this bankruptcy case.

(b) Continued use of cash collateral (dkt. 156)

The tentative ruling is that Debtor has not sufficiently justified its proposed expenditures under the line item for "Professional Fees (Legal, Accounting)." The tentative ruling is to grant the motion for use of cash collateral, through 8/18/19, except that professional fees must be limited, and the tentative ruling is to set a limit of paying not more than \$15,000 per week without further authorization of this Court. (To be clear: if Debtor in its business judgment believes that it must incur more than that amount of

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professional fees, it may do so, subject to the usual limits on reasonableness of fees, billing judgment, and business judgment - what is limited by this tentative ruling is use of cash collateral, not incurring fees.)

(c) Cathay Bank's adequate protection: replacement liens v. cash payments

The tentative ruling is to deny the Bank's request for interim payments. It is already adequately protected by the protections on the terms of this Court's prior orders and the additional protections set forth above.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: file by 6/30/19 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/11/19 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/7/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/9/19:

Appearances required. This status conference has been set pursuant to this Court's order (dkt. 4) and notice thereof (dkt. 75), pursuant to which status conferences are held concurrent with any other calendared proceeding.

(1) Current issues

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(a) Employment of bankruptcy counsel (dkt. 83)

Debtor is directed to address the issues raised in Cathay Bank's opposition (dkt. 117) (source of retainer; non-consent to use of cash collateral or carve-out; and objection to any *Knudsen* procedure). In addition, the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) state that counsel must file local form F 2014-1.STMT.DISINTEREST.PROF and also state:

Note: the judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(b) Employment of special counsel, employment issues (dkt. 113)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

(c) Employment of BidMed LLC as asset liquidation broker (dkt. 134)

See above re local form F 2014-1.STMT.DISINTEREST.PROF.

In addition, although this employment application is not on for hearing at this time, Debtor and all parties in interest should be aware that Judge Bason has in the past disapproved buyer's premiums. See the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) which provide in part that any order authorizing such employment typically will include a provision stating, "no buyer's premium" for auctioneers. This should not be interpreted as making any economic change in the compensation arrangement - the auctioneer and Debtor can adjust what is paid by Debtor such that the net compensation is the same - but the tentative ruling is that this is required both as a matter of disclosure (of what the professional is charging out of property of the estate or the proceeds of such property) and as a matter of disinterestedness (not being paid by both parties, but only by Debtor).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) 1113 Motion (dkt. 62)

Grant.

(b) Motion to Sell personal property (dkt. 95)

As provided in this Court's Order Granting Application and Setting Hearing on Shortened Notice (dkt. 99, 101), the tentative ruling is to grant the motion, including waiver of the 14 day stay of the order, provided that any "good faith" finding must be supported by appropriate delcaration(s) per the posted Procedures of the undersigned Bankruptcy Judge, which declaration(s) must be filed before lodging any proposed order that includes such a finding.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 4/30/19 at 1:00 p.m., status report due 4/23/19.

*Warning: special procedures apply (see order setting initial status

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Tentative Ruling for 3/12/19:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Motion to use prepetition bank accounts (dkt. 12)

Grant on a final basis, on the same terms as the interim order (dkt. 55).

(b) Utility motion (dkt. 25)

Grant on a final basis, on the same terms as the interim order (dkt. 54).

(c) Cash collateral motion (dkt. 13)

Grant on a final basis, on the same terms as the interim order (dkt. 71), except that after review of the parties' briefs (dkt. 76, 78) and the other documents and records before this Court, the tentative ruling is as follows:

(i) Real estate: Continue Cathay Bank's replacement lien on all of Debtor's real properties (subject to adjustment as set forth below).

(ii) Books and records: Grant access to Debtor's historical books and records, and all documents used to create the cash collateral budget and the chart summarizing collateral values, with such access starting on 3/18/19, for Cathay Bank's forensic accountant, James Crossland, to inspect and copy (including copying hard drives), during normal business hours. Such access must be subject to whatever Non-Disclosure Agreement, redaction, or other safeguards as may be necessary or appropriate to protect employees' privacy, attorney-client communications, Debtor's trade secrets, etc. The parties are directed to meet and confer on those issues, and the parties are also directed to review the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding discovery disputes.

(iii) Reporting: Require Debtor to file and serve reconciliations, 10 days in arrears on Wednesday of each week (*i.e.*, covering the week that

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ended 10 days prior), comparing actual results with budgeted results, and calculating variances against budgeted and actual receipts and expenditures.

(iv) CDs: The tentative ruling is that Cathay Bank need not apply any CDs to the extent that they are collateral for standby letters of credit for any liability to workers' compensation insurers. But the parties are directed to address whether there are any other CDs at issue, and why, as a condition for the other adequate protection being granted to Cathay Bank, it should not be required to apply such other CDs against the loans for which they are collateral, so as to stop accruing interest or other charges adverse to Debtor and the bankruptcy estate.

The tentative ruling is to deny Cathay Bank's request for additional adequate protection in the form of monthly payments of interest. Debtor is liquidating much of its business, which creates a situation in which both assets and cash flow are somewhat uncertain. That uncertainty favors granting the Bank the additional adequate protection set forth above; but it also means that Debtor may have urgent needs to use cash for legitimate purposes other than interest payments to the Bank.

The tentative ruling is that all of the foregoing is subject to being revisited as the facts and circumstances develop. For example, if Debtor turns out to have success in collecting the proportion of accounts receivable that it predicts, it might be appropriate to find that Cathay Bank is adequately protected by a lien on less than all of Debtor's remaining real estate. Likewise, if Debtor pays down some of its debt to Cathay Bank through sales of some real property, that might reduce the need for the replacement liens to be as extensive as contemplated by this tentative ruling.

Conversely, if Debtor's accounts receivable appear to be less valuable than predicted by Debtor then Cathay Bank might need every bit of the replacement liens in Debtor's real property and all other assets (except avoidance actions etc.). Ironically, the more dire Debtor's finances, and the greater the risk of administrative insolvency, the stronger the argument that even if the Bank were free to foreclose it would have to pay someone to liquidate Debtor's assets in an orderly fashion (11 U.S.C. 506(c)), and in any event the "equities of the case" might warrant a carve-out for professionals (11 U.S.C. 552(b)). But those are issues that can be addressed when and if there is any need to do so.

The tentative ruling regarding Cathay Bank's evidentiary objections and due process objections (dkt. 78) is that, if this Court adopts the foregoing

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tentative ruling (granting replacement liens in essentially all of Debtor's assets), then those objections should be overruled because (x) Cathay Bank cannot be granted a replacement lien in greater than "all" of Debtor's assets, so to a large extent the value of those assets is irrelevant, and (y) whatever weaknesses may exist in Debtor's valuation evidence, there is enough to establish on a *prima facie* basis a reasonable probability that Cathay Bank is sufficiently over-secured to provide it with a substantial equity cushion, which is one form of adequate protection, and that is sufficient for present purposes.

As for the alleged costs of selling property subject to Cathay Bank's replacement liens, this Court can assess for each proposed sale whether Debtor's proposed use of the proceeds is consistent with adequate protection, and whether Cathay Bank is unreasonably withholding its consent under 11 U.S.C. 363(f)(2). In addition, all parties in interest are directed to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) regarding 363 sales.

(d) Motion to reject collective bargaining agreements (dkt. 62) (the "1113 Motion")

Debtor seeks relief without a hearing, on 14 days' notice (so called "negative notice," or a "scream or die procedure"). But it appears that an actual hearing is required, and must be held quickly, under 11 U.S.C. 1113(d) (1) ("Upon the filing of an application for rejection the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application," although "[t]he court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interest of justice require such extension, or for additional periods of time to which the trustee and [employee's] representative agree.").

The 1113 Motion was filed on 3/1/19. The tentative ruling is to find that granting a short extension is warranted, based on the apparent lack of prejudice from doing so, and that a hearing should be held either on 3/21/19 at 1:00 p.m. or, if the representatives of the various employee groups will consent, concurrent with the continued status conference (see below). Debtor is directed to address what efforts have been made to obtain the consent of any representative who is not present at the hearing. The tentative ruling is that Debtor must file and serve notice of the hearing date on all representatives (and other parties requiring notice) no later than 3/13/19.

Proposed orders: Debtor is directed to lodge proposed orders on each

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of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., status report due 3/12/19 (see dkt. 4). In addition, if it is necessary before that time to hold a hearing on the 1113 Motion, the status conference will also be held concurrent with that hearing.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/28/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

The tentative ruling, subject to any oppositions at the hearing (pursuant to the orders shortening time) is to grant the following relief and to find that, to the extent relief is granted pursuant to Rules 4001(b)(2) and 6003 (Fed. R. Bankr. P.), such relief is necessary avoid immediate and irreparable harm to the estate.

(1) Current issues

(a) Motion to limit notice (dkt. 8)

Grant in substantial part, subject to certain modifications to be addressed at the hearing. Among other things, this Court anticipates that, because the motion was not served on the entire creditor matrix, any party who was not served may seek reconsideration without meeting the usual standards under Rules 9023, 9024 or 52(b) (Fed. R. Bankr. P. & Fed. R. Civ.

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P., incorporated by Rules 7052 and 9014(c)).

(b) Motion to extend time (dkt. 9)

Grant, with a caution that this Court is unlikely to grant further extensions.

(c) Payroll motion (dkt. 14)

Grant, except to the extent that the proposed payments in Exhibit 1 (dkt. 14, Ex.1) exceed the priority maximum provided in 11 U.S.C. 507(a)(4) and, if applicable, 507(a)(5).

(d) Motion to use prepetition bank accounts (dkt. 12)

Grant, subject to sufficient safeguards (i) to ensure accurate accounting including separation of pre- and postpetition accounting and (ii) to prevent inadvertent payment of prepetition obligations. Debtor is directed to work closely with the Office of the United States Trustee to develop and implement such procedures.

(e) Cash collateral motion (dkt. 13)

Grant in part and deny in part on an interim basis, as set forth in calendar no. 5 (2/28/19 at 10:00 a.m.).

(f) Motion to reject unexpired leases (dkt. 24)

Grant, except that Debtor seeks rejection effective as of 2/20/19 and, although there is some authority for retroactive rejection (*see, e.g., In re At Home Corp.*, 392 F.3d 1064 (9th Cir. 2004)), Debtor has not addressed the types of considerations that would determine whether retroactive rejection is appropriate (*e.g.,* were the premises vacated as of 2/20/19? when were the landlords given notice that the premises would be or were vacant? were the premises left in "broom clean" condition?). Debtor is directed to address those issues at the hearing.

(g) Utility motion (dkt. 25)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing to take place at the same time as the continued status conference (see below) and a deadline of 3/1/19 for Debtor to file and serve a notice of the final hearing.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: TBD

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(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 3/26/19 at 1:00 p.m., *brief* status report due 3/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#6.00 Hrg re: Motion to Quash Cathay Bank's Subpoenas
or, in the Alternative, for A Protective Order

Docket 35

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the adversary proceeding status
conference (cal. no. 7, 9/24/19 at 2:00 p.m.).

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Montserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Represented By
Michael J Khouri

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

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Marlene McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Leslie M McNeal

Represented By
Frances M O'Meara

Movant(s):

Louella M McNeal

Represented By
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara

Leslie M. McNeal

Represented By
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara
Frances M O'Meara

Marlene McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Plaintiff(s):

Cathay Bank, a California banking

Represented By

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Michael G Fletcher
Reed S Waddell
Gerrick Warrington

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#7.00 Cont'd status conference re: Removal
fr. 7/2/19; 08/06/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 38 & 40) and the other filed documents and records in this adversary proceeding.

Preliminary issues

(a) McNeal Defendants' Motion to Quash Cathay Bank's Subpoenas, or in the alternative, for a protective order (adv. dkt. 35) (the "Motion to Quash"), Cathay Bank's opposition (adv. dkt. 37), McNeal Defendants' reply (adv. dkt. 39)

The tentative ruling is to deny the Motion to Quash for the reasons set forth in Cathay Bank's opposition (adv. dkt. 37).

Proposed order: Cathay Bank is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Motion for TRO etc. (adv.dkt.10, 18, 19, 21, 32, 33)

This matter was continued to this hearing date, but it does not appear that there are any remaining issues to address at this time. Accordingly the tentative ruling is to take this matter off calendar, without prejudice to re-noticing it to be heard at the same time as any future status conference in this adversary proceeding or the bankruptcy case. The tentative ruling is also to authorize Debtor to self-calendar this motion at 2:00 p.m., after notifying the Courtroom Deputy of Judge Bason of this authorization to do so, and to memorialize the provisions of this paragraph in a written order.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(1) Venue/jurisdiction/authority.

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Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket numbers 8, 9, 17, 38, 40 and at the hearing on 9/10/19).

(2) Mediation. [Intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since 5/21/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 11/26/19.

Continued status conference: 12/10/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

[OMITTED (see adv.dkt.31, 33)]

Party Information

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CONT... Schaefer Ambulance Service, Inc

Chapter 11

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Montserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Gianni

Represented By
Michael J Khouri

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Plaintiff(s):

Cathay Bank, a California banking

Represented By
Michael G Fletcher
Reed S Waddell
Gerrick Warrington

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#8.00 Cont'd status conference re: Motion for a temporary restraining order Determining that Continuation of Removed Action Against the Debtors Officers and Directors Violates the Automatic Stay, and (2) Temporary Restraining Order and Preliminary Injunction Enjoining Plaintiff Cathay Bank from Continuing Removed Action Against the Debtors Officers and Directors
fr. 7/2/19; 08/06/19

Docket 10

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the adversary proceeding status conference (cal. no. 7, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19:

Please see the tentative ruling for the adversary proceeding status conference (calendar no. 4, 8/6/19 at 2:00 p.m.)

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the main case status conference (calendar no. 6, 7/2/19 at 2:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Montserrat Morales
Craig G Margulies

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Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Represented By
Michael J Khouri

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Movant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Monserrat Morales
Craig G Margulies

Plaintiff(s):

Cathay Bank, a California banking

Represented By
Michael G Fletcher
Reed S Waddell
Gerrick Warrington

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#9.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19;
08/06/19, 8/20/19

Docket 43

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 13, 9/24/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 4/30/19 at 11:00 a.m.)

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CONT... Attitude Marketing, Inc.

Chapter 7

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim

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2:16-21559 David MacMillan

Chapter 7

#10.00 Cont'd hrg re: Application for payment of interim fees
and/or expenses for LEA Accountancy LLP
fr. 8/20/19

Docket 398

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 13, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 12, 8/20/19 at 2:00 p.m.).

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Movant(s):

LEA Accountancy LLP

Pro Se

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

#11.00 Cont'd hrg re: First interim application for fees and reimbursement of costs of Dumas & Kim, APC., counsl for trustee fr. 8/20/19

Docket 394

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 13, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 12, 8/20/19 at 2:00 p.m.).

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

#12.00 Cont'd hrg re: Motion for Turnover of Estate Property and Accounting
fr. 05/21/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19

Docket 355

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 13, 9/24/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the status conference (calendar no. 12, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference (calendar no. 4, 6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 12, 5/21/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

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Chapter 7

Movant(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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Chapter 7

#13.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19
08/06/19, 8/20/19

Docket 332

Tentative Ruling:

This Court will be issuing a written decision, prior to the hearing, on the matters under submission. Appearances required.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#14.00 Cont'd Status Conference re: Complaint Objecting to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18, 4/9/19; 04/30/19, 05/21/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the status conference in the related adversary proceeding (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 18, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 18, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 9, 6/4/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 14, 5/21/19 at 2:00 p.m.).

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Tentative Ruling for 4/30/19:

Please see the tentative ruling for the adversary proceeding this proceeding is being jointly administered with (calendar no. 5, 4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Tentative Ruling for 1/30/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address (a) why they failed to file the required status report, (b) why the motions for joint administration/consolidation of the two closely related adversary proceedings have not been prosecuted, and (c) the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not formalize the fact that the pending mediation includes this adversary proceeding by issuing

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Chapter 7

an order to mediate this matter together with related adversary proceeding (2:17-ap-01229-NB)? The tentative ruling is to direct counsel for the defendants to lodge a proposed order to that effect.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C Vanderhoof
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 24, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#15.00 Cont'd hrg re: Plaintiff's Motion for Summary Judgment
and for Entry of a Separate Judgment
fr. 06/04/19, 7/2/19; 08/06/19, 8/20/19

Docket 53

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see tentative ruling for the adversary status conference (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see tentative ruling for the adversary status conference (calendar no. 19, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling for adversary status conference (calendar no. 7, 6/4/19 at 2:00 p.m.).

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

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Tuesday, September 24, 2019

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Chapter 7

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Movant(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#16.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 04/09/19, 04/30/19, 5/7/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

This Court will be issuing a written decision, prior to the hearing, on the matters under submission. Appearances required.

Tentative Ruling for 8/20/19:

At the 6/4/19 hearing this Court took the Motion for Summary Judgment (adv. dkt. 53) under submission and anticipates issuing an order on that motion at a later time, and addressing the other matters in these related proceedings at a continued hearing on 9/24/19 at 2:00 p.m.

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 5/7/19:

Continue as set forth below. Appearances are not required on 5/7/19.

(1) Current issues. This Court is not aware of any issues that would warrant a status conference at this time.

(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dct. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

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(3) Deadlines: This adversary proceeding has been pending since 11/21/17.

Discovery cutoff (for *completion* of discovery): 3/25/19 (adv. dkt. 48)

Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)

Expert(s) - discovery cutoff (if different from above):

Dispositive motions to be heard no later than: 2/11/19 [previously set, but parties appear to assume that deadline will be excused (see dkt. 53)]

Joint Status Report: 5/7/19

Continued status conference: 6/4/19 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances required.

From the prior status report (adv. dkt. 50) it appears that the previously ordered deadlines (adv. dkt. 48) may need to be revised. The parties are directed to address that issue.

(1) Motion for summary judgment ("MSJ," adv.dkt. 43). Contrary to the posted Procedures of Judge Bason, Plaintiff self-calendared the MSJ. In addition, the MSJ is set for 10:00 a.m. (on 6/4/19), which is this Court's relief from stay calendar. The tentative ruling is to reschedule the hearing to 2:00 p.m. on 6/4/19.

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(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dct. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

(3) Deadlines: This adversary proceeding has been pending since 11/21/17.

Discovery cutoff (for *completion* of discovery): 3/25/19 (adv. dkt. 48)

Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)

Expert(s) - discovery cutoff (if different from above):

Dispositive motions to be heard no later than: 2/11/19 [needs revision]

Joint Status Report: 5/7/19

Continued status conference: 6/4/19 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Address procedural issues and then continue this status conference as set forth below. Appearances required.

Current issues

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.).

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Los Angeles
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(b) Continued hearing

The tentative ruling is to continue this status conference to 4/30/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required.

The tentative ruling is to continue this status conference to 5/7/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

The tentative ruling is (1) to continue this status conference to 3/26/19 at 11:00 a.m., with no written status report required prior to that continued date, and (2) to extend the discovery cut off to 3/15/19 per the parties' Joint Status Report (adv. dkt. 45). Plaintiff is directed to lodge a proposed scheduling order containing this new deadline, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form. Appearances are not required on 2/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 11/6/18:

(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's scheduling order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 8/14/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. docket number(s) 23).

(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and

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are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

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Reasons: At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

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Chapter 7

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

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Central District of California
Los Angeles
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CONT... David MacMillan

Chapter 7

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#17.00 Cont'd hrg re: Plaintiff's Motion for Summary Judgment
fr. 06/04/19, 7/2/19; 08/06/19, 8/20/19

Docket 98

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see tentative ruling for the adversary status conference (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the status conference (calendar no. 21, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference (calendar no. 9, 6/4/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David MacMillan

Represented By

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David MacMillan

Robert S Altagen

Chapter 7

Movant(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#18.00 Cont'd hrg re: Declaration of Daniel M. Eliades in Further Support of Wyndham Vacation Resort Inc.'s Motion to Compel fr. 7/30/19; 08/06/19, 8/20/19

Docket 128

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see tentative ruling for the adversary status conference (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/30/19:

Continue to 8/6/19 at 2:00 p.m., to be heard concurrently with the other David MacMillan bankruptcy (2:16-bk-21559-NB) related matters. Appearances are not required on 7/30/19.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

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Movant(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan

#19.00 Cont'd Status Conference re: Complaint to Determine
Non-Dischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18,
08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19,
4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the adversary status conference (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

At the 6/4/19 hearing this Court took the Motion for Summary Judgment (adv. dkt. 98) under submission and anticipates issuing an order at a later time.

Tentative Ruling for 6/4/19:

[No tentative ruling was posted]

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19. The tentative ruling is to continue the hearings in these related adversary proceedings (calendar no. 13 & 14, 5/21/19) to the date of the continued status conference (see below).

(1) Current issues

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The tentative ruling on the Motion to Compel (dkt. 104) and the Order to Show Cause ("OSC," dkt. 107) is to continue these matters as requested in the response of Aston Business Solutions, Inc. (dkt. 110, 111). This Court contemplates that the deadlines for completion of discovery and other matters will need to be extended, and the parties are directed to meet and confer and, if they can agree to new deadlines, lodge a proposed order. If they cannot agree, this Court anticipates setting new deadlines at the continued status conference.

(2) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(3) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 6/11/19 at 2:00 p.m. No written status report required.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

This Court has reviewed the latest filed documents in this adversary proceeding and is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Supplemental Tentative Ruling for 4/9/19:

The original tentative ruling (below) provides two inconsistent dates for a continued status conference: 4/30/19 at 11:00 a.m., 4/7/19 at 11:00 a.m. The latter [should be "former"] is correct. No status report required.

Tentative Ruling for 4/9/19:

Deny the motion to quash (with the possible exception of one aspect), address procedural issues, and then continue this Status Conference, all as set forth below. Appearances required.

Current issues:

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(b) Motion to Quash (adv. dkt. 84)

The tentative ruling is that the motion to quash (adv. dkt. 84) by Aston Business Solutions, Inc. ("ABS") is unpersuasive, except perhaps for limitations as to time, which the parties are directed to address at the hearing.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(A) Analysis re motion to quash

ABS asserts only vague objections:

(1) Competitors?

ABS asserts that it and Plaintiff are competitors. How so?

The motion does not even disclose ABS' business. Is it a timeshare owner? Is it a timeshare operator? Is it something else? (As noted below, this Court expects that it has gleaned the answer from other documents, but the tentative ruling is that this lack of even such basic information in the motion is fatal to this argument.)

(2) Protected information?

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ABS alleges that some sort of trade secrets or other confidential, privileged, or other type of protected information is involved. What sort of information? Why would a traditional privilege log and other tools be inadequate?

ABS complains that parties in interest in this bankruptcy case have shared information. But ABS fails to point to any prohibition on sharing information.

(3) Burden?

ABS alleges that the requested discovery is unduly burdensome. How so? Is it stored in thousands of boxes of paper files that are difficult to reach and review for some reason?

(4) Vagueness and overbreadth?

ABS alleges that the discovery requests are vague and overbroad. How so? ABS fails to provide any explanation or evidence to support this allegations.

(5) Discussion

Based on a question (not an answer) in excerpts from the deposition of ABS' President and shareholder, Glenn Chaffin, ABS may be a marketing company for "timeshare exit companies." Adv. dkt. 84, Ex.1 (Depo. Tr. 1/24/19), p.95:22-23. But how does that make ABS a "competitor" of Plaintiff, with information that would constitute trade secrets, as opposed to a facilitator of (possibly) legitimate ways to exit timeshares, who sends out non-secret flyers and other publicly known marketing materials, and assists timeshare members in navigating contracts that are known to all the parties?

Such a facilitator theoretically could benefit Plaintiff, by replacing non-paying or troubled members with paying ones - unless, of course, ABS engages in acts that improperly interfere with contractual relations or otherwise assists in the wrongdoing of which Plaintiff accuses Defendants. Plaintiff's discovery appears to be targeted at discovering information that could lead to admissible evidence on this and other relevant issues. Accordingly, the discovery appears to be entirely proper and appropriate, with the possible exception of the movant's request to impose some limitations as to time, which the parties are directed to address at the hearing.

(B) Adversary proceeding status conference issues

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined

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and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Continued status conference: 4/30/19 at 11:00 a.m., no status report required.

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

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This Court has reviewed the latest filed documents in this adversary proceeding, including the parties' status reports (dkt. 89, 91). This Court is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for completion of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.
Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).
Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).
Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).
Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).
Dispositive motions to be heard no later than: TBD
Joint Status Report: 3/12/19.
Continued status conference: 3/26/19 at 11:00 a.m.
Lodge Joint Proposed Pre-Trial Order: TBD
Pretrial conference: TBD
Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")
Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

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Christian T Kim

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Peter J Mastan (TR)

Pro Se

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2:19-18316 Ashley Susan Aarons

Chapter 11

#20.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/10/19

ALLIANCE PORTFOLIO, PRIVATE EQUITY FINANCE
VS
DEBTOR

Docket 40

Tentative Ruling:

Tentative Ruling for 9/24/19:

Please see tentative ruling for the status conference (calendar no. 21, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 9/10/19:

Grant the motion of Alliance Portfolio, Private Equity Finance, Inc. ("Alliance") Motion for Relief From The Automatic Stay (dkt. 40, 41), on the terms set forth below, based on this Court's review of that motion, Debtor's opposition (dkt. 44), Alliance's reply (dkt. 50), and the other facts and circumstances, including this Court's review of Debtor's prior bankruptcy case and the order in this case (dkt.31) continuing the automatic stay. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

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Chapter 11

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within 180 days after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the grounds for "*in rem*" relief unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks a finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

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Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

Movant(s):

Alliance Portfolio, Private Equity

Represented By
Robert P Goe

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Chapter 11

#21.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 9/24/19:

Appearances required. The Court has reviewed the Debtor's status report (dkt. 69).

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The parties should be prepared to advise this Court on whether they will agree to an adequate protection order and the proposed \$50,000 loan from Complete Business Solutions Group ("Complete") (dkt.69, p.2:21-25). The parties also should be prepared to address whether shortened time or other special procedures are requested regarding any proposed lending. See 11 U.S.C. 364; Rules 4001(c) & 9006(c)(2) (Fed. R. Bankr. P.).

(b) Contemplated contract with Majestic Ventures LLC dba VacationHomes365.com ("Consultant") re marketing (Airbnb etc.)

Debtor is contemplating a contract with Consultant for marketing services. Dkt.69, Ex.2. As that contract points out (*id.*, sec.7.2, p.44), Debtor is responsible for complying with legal obligations regarding short term rentals, and associated costs, including local taxes.

The parties should be prepared to address whether Consultant is a "professional" within the meaning of 11 U.S.C. 327; whether approval of the contract with Consultant is required under that section or section 363(b); and whether shortened time or other special procedures are requested regarding any proposed agreement with Consultant. See 11 U.S.C. 327, 363(b); Rules 2002(a)(2) & 9006(c)(2) (Fed. R. Bankr. P.).

(c) Termination of prior real estate agent

Debtor reports (dkt. 69, para.3) that the previously authorized real

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estate agent has agreed to cancel the listing. Is that in writing? Will Debtor need any order related to that cancellation/termination? What assurance is there that this prior agent will not seek some sort of compensation?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required.

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

Grant, as set forth in calendar no. 3 (9/10/19 at 1:00 p.m.).

(b) Employment Motion for The Turoci Firm (dkt. 23, 28)

Deny, as set forth in calendar no. 4 (9/10/19 at 1:00 p.m.). The parties should be prepared to address whether Debtor has arranged for alternate counsel.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

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(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by debtor herself.

(1) Current issues

(a) Airbnb

Debtor's budget motion (dkt. 37, Ex.A, p.2) reveals that, although the Sweetzer property is "listed to be sold," meanwhile "Debtor intends to rent [that property] as an Airbnb." The tentative ruling is that this is a transaction out of the ordinary course, which requires notice, an opportunity for a hearing, and approval by this Court. 11 U.S.C. 363(b). Has Debtor already acted on this intent, without such approval?

In addition, this Court is concerned about (i) whether Airbnb rental would be in compliance with any local permitting and zoning requirements and is otherwise permissible, (ii) whether that proposed use might expose the bankruptcy estate to liabilities, (iii) whether there is adequate insurance for that use of the property, and (iv) whether the proposed sale of the property is consistent with any agreement with Airbnb.

(b) Real estate agent.

The employment application (dkt. 26, p.4:1-4) states that Agent has agreed to disclose to Debtor [i.e., only to Debtor? how about disclosure to creditors, the US Trustee, and this Court?] any agency relationship Agent has with other parties ("Third Parties") that may be part of a real estate transaction for the sale of the Real Property [i.e., dual agency? that is prohibited by the posted

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Central District of California
Los Angeles
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Tuesday, September 24, 2019

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2:00 PM

CONT...

Ashley Susan Aarons

Chapter 11

Procedures of Judge Bason (available at www.cacb.uscourts.gov)
as well as the amount of any compensation Agent receives from
Agent's relationship with any Third Parties [*i.e.*, splitting the
commission with a cooperating agent from a different real estate
agency? or something else?].

What does the quoted text mean? This Court's questions are set forth
in the emphasized, bracketed text above.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status
report due 9/17/19.

*Warning: special procedures apply (see order setting initial status
conference).

If appearances are not required at the start of this tentative ruling but you
wish to dispute the tentative ruling, or for further explanation of "appearances
required/are not required," please see Judge Bason's Procedures (posted at
www.cacb.uscourts.gov) then search for "tentative rulings." If appearances
are required, and you fail to appear without adequately resolving this matter
by consent, then you may waive your right to be heard on matters that are
appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:15-17643 Sib Edward Ventress and Jennifer Heidi Ventress

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 64

Tentative Ruling:

Continue to 10/15/19 at 10:00 a.m. because Debtors have filed their Motion to Commence LMM Program (dkt. 66). Appearances are not required on 10/1/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sib Edward Ventress

Represented By
Charles J Brash

Joint Debtor(s):

Jennifer Heidi Ventress

Represented By
Charles J Brash

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Keith Labell
Sean C Ferry

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

CONT... Sib Edward Ventress and Jennifer Heidi Ventress

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:15-29242 Salvador Flores and Maria D Flores

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON, et al
vs
DEBTOR

Docket 81

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

CONT... Salvador Flores and Maria D Flores

Chapter 13

Party Information

Debtor(s):

Salvador Flores

Represented By
Stephen R Wade
W. Derek May

Joint Debtor(s):

Maria D Flores

Represented By
Stephen R Wade
W. Derek May

Movant(s):

The Bank of New York Mellon, et al

Represented By
Bonni S Mantovani

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:17-11068 Madalyn Mary Phillips

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

CHAMPION MORTGAGE COMPANY DBA
NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 91

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Madalyn Mary Phillips Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Madalyn Mary Phillips

Represented By
Barry E Borowitz

Movant(s):

Champion Mortgage Company

Represented By
Sean C Ferry
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:18-11817 Tierus Eugene James

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 55

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 57).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tierus Eugene James

Represented By
Kevin T Simon

Movant(s):

Deutsche Bank National Trust

Represented By
Kelsey X Luu
Dane W Exnowski
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, October 1, 2019

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10:00 AM

CONT... Tierus Eugene James

Chapter 13

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-12429 Dana Hollister

Chapter 11

#5.00 Hrg re: Motion for relief from stay [RP]

BOBS, LLC
vs
DEBTOR

Docket 936

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (1) a proposed timeline, and sequence, for discovery and court proceedings regarding the value of the Paramour and whether Bobs, LLC's second loan is secured or unsecured, and (2) whether this Court should set an evidentiary hearing regarding the value of the Paramour, or whether other procedures are appropriate, such as using a third party appraiser, selected jointly by the parties' own appraisers, who would be either appointed as this Court's own expert witness to assist this Court in assessing the parties' appraisals and testimony of their appraisers, or, alternatively, whose determination would be binding. See Motion (dkt.936), Opposition papers (dkt.948, 949, 950, 951, 952), and Reply papers (dkt.958, 959).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
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10:00 AM

CONT... Dana Hollister

Chapter 11

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:19-11611 Yeni Ramos

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NA.
vs
DEBTOR

Docket 47

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 49).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Yeni Ramos

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

U.S. Bank N.A., as trustee, on behalf

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:17-24148 Earl Brian Williams and LaDonna Marcella Williams

Chapter 13

#7.00 Hrg re: Motion for relief from stay [NA]

MAKIKO NAMIKAWA
vs
DEBTOR

Docket 50

Tentative Ruling:

Grant as provided below, pursuant to the unopposed motion papers, the fact that it appears that the automatic stay is largely inapplicable (see below), and the analysis in *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990); *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011); *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal. 2004); and *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) The automatic stay applies, but only to a limited extent

The nonbankruptcy action at issue appears to arise from a postpetition sale of real property, with allegedly undisclosed mold issues. For the most part, the automatic stay concerns prepetition claims, but the automatic stay does apply because it also prohibits, e.g., acts to "obtain possession of property of the estate" (11 U.S.C. 362(a)(3)), which would include attempts to collect any judgment out of property of the estate, such as by garnishing Debtors' postpetition wages. See 11 U.S.C. 1306.

(2) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to

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CONT... **Earl Brian Williams and LaDonna Marcella Williams**

Chapter 13

final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

This Bankruptcy Court emphasizes that it does not seek in any way to impinge on the authority of the Nonbankruptcy Courts presiding over the nonbankruptcy action. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage this bankruptcy case. Those obligations including taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and preserving the bankruptcy estate by placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

(3) Additional relief

Retroactive relief

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CONT... **Earl Brian Williams and LaDonna Marcella Williams** **Chapter 13**

Grant the request for retroactive annulment of the stay. *See In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); *and see also In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Earl Brian Williams

Represented By
Brad Weil

Joint Debtor(s):

LaDonna Marcella Williams

Represented By
Brad Weil

Movant(s):

Makiko Namikawa

Represented By
Christopher C Barsness

**United States Bankruptcy Court
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CONT... Earl Brian Williams and LaDonna Marcella Williams

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#8.00 Hrg re: Motion for relief from stay [NA]

DELANO FIELDS
vs
DEBTOR

Docket 46

Tentative Ruling:

Grant in part and deny in part as provided below. The parties should be prepared to address the amount of time that this Court should grant Debtor an additional "breathing spell" as discussed below. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 66), no reply is on file as of the preparation of this tentative ruling

(1) Standing

The tentative ruling is to overrule Debtor's objection that Movant lacks standing to seek the relief requested because he does not have an allowed claim. He may not have an allowable claim, but that does not mean he lacks standing.

True, his claim cannot be allowed in this chapter 11 case as a result of his failure to timely file a proof of claim. Rule 3003(c)(2) (Fed. R. Bankr. P.) provides in relevant part that "[a]ny creditor whose claim or interest is . . . scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3)" and "any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution." (Emphasis added.)

But Debtor cites no authority that an inability to participate in voting and distribution in the bankruptcy case means that Movant lacks a claim that

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CONT... **Unified Protective Services, Inc.**

Chapter 11

can be asserted against Debtor's insurance, or that Debtor's alleged wrongdoing cannot form the basis for claims against third parties such as Debtor's principals. The tentative ruling is that, like the "*in rem*" rights of creditors who hold liens but fail to file a proof of claim, Movant's rights survive except for purposes of voting and distribution in the bankruptcy case.

In addition, it is premature to conclude that Movant could never have an allowable claim. For example, this case could be dismissed or converted, which could give Movant an opportunity to assert claims against Debtor. That possibility gives Movant a cognizable financial interest that is an alternative ground on which Movant has standing to seek relief from the automatic stay.

For all of these reasons, the tentative ruling is that Debtor has not established that Movant lacks standing to bring this motion for relief from the automatic stay.

(2) Merits of the motion and opposition

The tentative ruling is (a) to grant Movant's request for an order confirming that the automatic stay does not protect the non-debtor defendants, and alternatively granting relief from the automatic stay for Movant to pursue its action(s) against such defendants, (b) to grant Movant's request for relief from stay with respect to any action to collect from insurance or third parties, but not against Debtor or the estate, and only after a short additional period of time for Debtor to have a "breathing spell," and (c) to deny Movant's request for retroactive annulment of the automatic stay, without prejudice to filing the amended complaint in Superior Court once the stay is lifted. Alternatively, although Movant's motion does not assert that mandatory abstention applies, the tentative ruling is (x) that it is proper for this Court to raise that issue sua sponte; (y) that mandatory abstention does apply; and (z) that mandatory abstention is one consideration in favor of granting relief from the automatic stay, after a short period for Debtor's "breathing spell."

(a) Legal standards

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

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"Cause' is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

(b) Non-Debtor defendants

In general, the automatic stay does not protect non-debtors, and any request to stay acts against non-debtors would require a separate adversary proceeding. See generally, *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007). That said, it can be difficult to determine whether the automatic stay applies when dealing with entities that may have intertwined finances with a debtor in bankruptcy, or when suing a related entity could be

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interpreted as an attempt to collect a claim against a debtor. See, e.g., 11 U.S.C. 362(a)(3) (staying any act to obtain possession of, or exercise control over, property of estate) and (a)(6) (staying any act to collect a prepetition claim against a debtor).

In this case neither Debtor nor any other party in interest has asserted that the automatic stay prevents Movant from suing the non-debtors. In addition, the record before this Court does not reflect facts and circumstances showing that the automatic stay would apply to suing the non-debtors. Accordingly the tentative ruling is that the automatic stay does not apply.

Alternatively, the tentative ruling is that if the stay were to apply for some reason, relief from the automatic stay would be appropriate to permit Movant to pursue its action(s) against the non-debtors. Of particular note, under the authorities cited above, any such acts involve third parties, and there has been no showing of interference with or prejudice to Debtor, other creditors, or the bankruptcy estate by permitting such acts. For example, the third parties themselves may have the expense of litigation, but there is no evidence that any such expense will constitute an administrative claim against the bankruptcy estate.

(c) Debtor and the bankruptcy estate

Based on the present record, the tentative ruling is that the *Curtis* factors weigh in favor of granting relief as to Debtor and the bankruptcy estate. Most significantly:

As to the first *Curtis* factor (would relief result in partial or complete resolution of issues?), granting relief would result in a complete resolution of the issues, whereas denying relief would not, because the other defendants in the state court action are not subject to this Court's jurisdiction, and the suit involves primarily issues of state labor law. Dkt. 46, Ex. 1.

As to the second *Curtis* factor (connection with or interference with the bankruptcy case) and the seventh *Curtis* factor (prejudice to other creditors/interested parties), Debtor has pointed primarily to the expense of litigation, and also to the need for a "breathing spell." But Movant seeks relief only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or property of the Debtor's bankruptcy estate. Accordingly, after a short additional time for Debtor's "breathing spell," the tentative ruling is that lifting the stay will not result in any undue interference or prejudice in this case.

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Unified Protective Services, Inc.

Chapter 11

As to the fifth *Curtis* factor (whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation), Movant asserts that the non-bankruptcy action is covered under the applicable insurance policy (see dkt. 46, p. 4, ¶ g, and Ex. 4). True, there is no evidence that the insurer has accepted coverage and will bear the expense of litigation (Movant asserts that insurance covered very similar claims before, but has not provided evidence of that assertion). But Debtor has not shown why it would be appropriate for Debtor to expend substantial sums on litigation, given that Movant has limited its recovery to insurance (if any) and third parties. Accordingly, the expense of litigation is not a major consideration.

As to the tenth and eleventh *Curtis* factors (judicial economy, expeditious and economical determination of litigation, and whether the non-bankruptcy proceedings have progressed to trial-readiness), Debtor points out that the non-bankruptcy action was filed shortly before the filing of the bankruptcy petition and is in the early stages of litigation. But Movant seeks a jury trial, and is pursuing third parties that appear to be beyond the jurisdiction of this Bankruptcy Court, so these factors favor lifting the automatic stay.

As for the twelfth *Curtis* factor (impact of the stay on the parties and the "balance of hurt"), Debtor has not explained how it would be unduly prejudiced by allowing Movant to proceed with seeking recovery from the applicable insurance provider and third parties, apart from needing a "breathing spell." Accordingly, on this record, it appears the "balance of hurt" weighs against continuation of the automatic stay beyond a short additional period of time for the "breathing spell" in which Debtor and its principal(s) can focus on this bankruptcy case and restructuring its obligations to all creditors.

For all of these reasons, the tentative ruling is to grant the motion subject to a short additional period of time for a "breathing spell." The parties should be prepared to address what period of time is appropriate.

(c) Annulment

The tentative ruling is to deny Movant's request for an order annulling the stay retroactively to the petition date. First, as Debtor points out, Movant fails to explain the basis for annulment. Second, Debtor provides evidence of notice to Movant prior (just barely) to the time when Movant filed his amended complaint in Superior Court. Third, there might be prejudice to Debtor if the automatic stay were annulled because then the time for Debtor to respond to the amended complaint might have already started running, or there might be other adverse consequences, whereas if the stay is not annulled then it

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CONT... **Unified Protective Services, Inc.**

Chapter 11

appears that all rights will be preserved: once the stay is terminated Movant will be free to file the amended complaint, and Debtor can respond timely.

(3) Beyond the parties' papers: sua sponte consideration of mandatory abstention

Although Movant does not assert that mandatory abstention applies, the tentative ruling is that it is appropriate for this Court to consider that issue *sua sponte*; that mandatory abstention does apply; and that this is an additional consideration favoring relief from the automatic stay (after a short additional period of time for Debtor's "breathing spell").

In order for mandatory abstention to apply, the proceeding must: 1) be based on a state law claim or cause of action, 2) lack a federal jurisdictional basis absent the bankruptcy, 3) be commenced in a state forum of appropriate jurisdiction, 4) be capable of timely adjudication, and 5) be a non-core proceeding. 28 U.S.C. 1334(c)(2). [*In re Conejo Enterprises, Inc.*, 71 F.3d 1460, 1464 (9th Cir. 1995), *further proceedings at* 96 F.3d 346 (9th Cir. 1996).]

The tentative ruling is that each one of these elements is satisfied so this Bankruptcy Court must abstain. That said, abstention and lifting the automatic stay are two separate considerations (*see Conejo*, 96 F.3d 346) and the tentative ruling is that although abstention favors relief from the automatic stay, a short additional "breathing spell" is still appropriate.

For these additional reasons, the tentative ruling is to grant the motion, subject to a short additional "breathing spell." Again, the parties should be prepared to address how much time is appropriate.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By

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CONT... Unified Protective Services, Inc.

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Michael Jay Berger

Movant(s):

Delano Fields

Represented By
Twila S White

United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#9.00 Hrg re: Motion for relief from stay [NA]

BRG ADAMS, LLC
vs
DEBTOR

Docket 37

*** VACATED *** REASON: Cont'd to 11/5/19 at 2:00 p.m.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

Apex Realty, Inc.

Represented By
Daniel J Weintraub
James R Selth
Crystle Jane Lindsey

BRG Adams, LLC

Represented By
James R Selth

**United States Bankruptcy Court
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Los Angeles
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Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:19-19694 Ramon Diaz

Chapter 13

#10.00 **[CASE DISMISSED ON 9/10/19]**

Hrg re: Motion for relief from stay [UD]

5800 HAROLD LLC
vs
DEBTOR

Docket 11

Tentative Ruling:

Grant in part and continue in part to 10/15/19 at 10:00 a.m. as set forth below.
Appearances are not required on 10/1/19.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay.
See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property. Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process

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CONT...

Ramon Diaz

Chapter 13

generally). In this matter, such persons appear to include: Dolorez White and Chelsey Rodriguez (who are named tenants, along with Tristin Kidd, who is the only named tenant who was served). See Lease Contract (dkt. 11, Ex.A), section 1 (at PDF p.15); POS (dkt.11 at PDF pp.75-76).

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant (i) serving, on the day after the current hearing date, the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service no later than the next day. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Ramon Diaz

Chapter 13

Debtor(s):

Ramon Diaz

Pro Se

Movant(s):

5800 Harold LLC

Represented By
Agop G Arakelian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-20423 Dennis M. Jackson

Chapter 13

#11.00 Hrg re: Motion for relief from stay [UD]

TODD BRISCO
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any

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CONT...

Dennis M. Jackson

Chapter 13

bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dennis M. Jackson

Pro Se

Movant(s):

Todd Brisco

Represented By
Todd A Brisco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-20447 Phedria Forte

Chapter 13

#12.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Phedria Forte

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Phedria Forte

Represented By
Matthew D. Resnik

Movant(s):

Phedria Forte

Represented By
Matthew D. Resnik
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:17-25631 Uche Pearl Rodriguez

Chapter 13

#13.00 Cont'd hrg re: Motion to Vacate
Order Granting Relief from Stay
fr. 7/2/19, 8/20/19

Docket 89

***** VACATED *** REASON: Resolved by stiplution, and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Uche Pearl Rodriguez

Represented By
Levi Reuben Uku

Movant(s):

Uche Pearl Rodriguez

Represented By
Levi Reuben Uku
Levi Reuben Uku
Levi Reuben Uku

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, October 1, 2019

Hearing Room 1545

10:00 AM

2:18-16458 Joseph Salazar

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/11/19, 7/9/19, 8/20/19

JPMORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 51

***** VACATED *** REASON: Case dismissed**

Tentative Ruling:

Party Information

Debtor(s):

Joseph Salazar

Represented By
Bryn C Deb
Patricia Rodriguez

Movant(s):

JPMorgan Chase Bank, National

Represented By
Joseph C Delmotte
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-23524 Jason Azizieh and Alma Azizieh

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19, 9/10/19

WELLS FARGO BANK
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 10/1/19 (same as for 9/10/19 and 7/30/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jason Azizieh

Represented By
Erika Luna

Joint Debtor(s):

Alma Azizieh

Represented By
Erika Luna

Movant(s):

WELLS FARGO BANK N.A., AS

Represented By

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10:00 AM

CONT... Jason Azizieh and Alma Azizieh

Chapter 13

Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-20769 Trisha Franklin

Chapter 13

#16.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 13

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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10:00 AM

CONT... Trisha Franklin

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Trisha Franklin

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Los Angeles
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Tuesday, October 1, 2019

Hearing Room 1545

11:00 AM

2:19-10323 Jesse Vaca and Marisela Vaca

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Filed by John J. Menchaca, Chapter 7 Trustee]

Docket 34

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$678.00 in fees, and \$38.40 in expenses, for a total of \$716.40. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jesse Vaca

Represented By
Todd B Becker

Joint Debtor(s):

Marisela Vaca

Represented By
Todd B Becker

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:16-14355 MEDomics, LLC

Chapter 7

#2.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[David M. Goodrich, Chapter 7 Trustee]

Docket 368

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$19,573.98 in fees, and \$1,359.69 in expenses, for a total of \$20,933.67. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa I Fogel

Trustee(s):

David M Goodrich (TR)

Represented By
Steven Werth

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11:00 AM

2:16-14355 MEDomics, LLC

Chapter 7

#3.00 Hrg re: First and Final Fee Application of SulmeyerKupetz
[Attorneys for David M. Goodrich, Chapter 7 Trustee]

Docket 349

Tentative Ruling:

Allow SulmeyerKupetz, APC \$35,718.00 in fees and \$809.75 in expenses, for a total of \$36,527.75. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa I Fogel

Trustee(s):

David M Goodrich (TR)

Represented By
Steven Werth

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11:00 AM

2:16-14355 MEDomics, LLC

Chapter 7

#4.00 Hrg re: First and Final Fee Application for compensation of attorney fees and reimbursement of expenses
[Filed by SulmeyerKupetz, A Professional Corporation
[Attorneys for David M. Goodrich, Chapter 11 Trustee]

Docket 348

Tentative Ruling:

Allow SulmeyerKupetz, APC \$26,109.00 in fees and \$164.58 in fees, for a total of \$26,273.58. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa I Fogel

Trustee(s):

David M Goodrich (TR)

Represented By
Steven Werth

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11:00 AM

2:16-14355 MEDomics, LLC

Chapter 7

#5.00 Hrg re: First and final fee application for Compensation and reimbursement of expenses
[Filed by Michael Jay Berger, attorney for debtor]

Docket 350

Tentative Ruling:

Allow the Law Offices of Michael Jay Berger \$35,974.00 in fees and \$1,646.44 in expenses, for a total of \$37,620.44, but authorize payment of \$27,620.44 in light of the \$10,000 retainer already received by counsel (see dkt. 33, 84, and 350 p.3:1-4). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa I Fogel

Trustee(s):

David M Goodrich (TR)

Represented By
Steven Werth

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11:00 AM

2:16-14355 MEDomics, LLC

Chapter 7

#6.00 Hrg re: Application for payment of final fees and/or expenses
[Filed by LEA Accountancy, LLP, accountant for Trustee (Chapter 7)]

Docket 362

Tentative Ruling:

Allow LEA Accountancy, LLP \$15,279.50 in fees and \$207.52 in expenses, for a total of \$15,482.02. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa I Fogel

Trustee(s):

David M Goodrich (TR)

Represented By
Steven Werth

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Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 1, 2019

Hearing Room 1545

11:00 AM

2:16-14355 MEDomics, LLC

Chapter 7

#7.00 Hrg re: Application for payment of final fees and/or expenses
[Filed by LEA Accountancy, LLP, accountant for Trustee (Chapter 11)]

Docket 360

Tentative Ruling:

Allow LEA Accountancy, LLP \$10,785.50 in fees and \$43.86 in expenses, for a total of \$10,829.36. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa I Fogel

Trustee(s):

David M Goodrich (TR)

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, October 1, 2019

Hearing Room 1545

11:00 AM

:18-22426 Edmond Melamed

Chapter 11

Adv#: 2:19-01243 Mazakoda, Inc. v. Melamed et al

#8.00 Status conference re: Complaint
objecting to discharge

Docket 1

Tentative Ruling:

Tentative Ruling for 10/1/19:

Continue to 11/5/19 at 11:00 a.m. for the parties to finalize and obtain approval (if required) of their settlement. See Stipulation to Extend the Deadline for Defendants' Response to Plaintiff's Complaint and related Order (adv. dkt. 4, 6). The parties are directed to file a joint status report by 10/29/19. Appearances are not required on 10/1/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Defendant(s):

Edmond Melamed

Pro Se

Rozita Melamed

Pro Se

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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CONT... Edmond Melamed

Chapter 11

Plaintiff(s):

Mazakoda, Inc.

Represented By
Scott E Gizer

**United States Bankruptcy Court
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Los Angeles
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Tuesday, October 1, 2019

Hearing Room 1545

11:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#9.00 Cont'd hrg re: Motion for Substantive Consolidation of the Estate of the Debtor and Nondebtor Spouse Amos Q. Wellington fr. 6/12/18, 07/17/18, 10/16/18, 03/12/19, 4/9/19, 05/21/19, 7/9/19

Docket 43

***** VACATED *** REASON: Cont'd to February 4, 2020 at 11:00 a.m.**

Tentative Ruling:

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

Michael D. Madison Sr.

Represented By
Stella A Havkin

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 1, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#10.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19, 7/30/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time - See #8 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 1, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#11.00 [Notice of Dismissal of Deft., Wesley H. Avery, Tr.]

Cont'd Status Conference re: Complaint Against Dischargeability
1) Declaratory Relief and 2) Fraudulent Transfer / Concealment
fr. 5/21/19, 06/04/19, 7/30/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time - See #6 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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Tuesday, October 1, 2019

Hearing Room 1545

11:00 AM

CONT... Philip James Layfield

Chapter 7

**United States Bankruptcy Court
Central District of California
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Tuesday, October 1, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

#12.00 Hrg re: Application for Authority to Employ SulfmeyerKupetz,
A Professional Corporation as General Bankruptcy Counsel

Docket 105

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the communication SulfmeyerKupetz, APC received from Debtor (see dkt. 110) disagreeing with the Supplemental Statement of Disinterestedness (dkt. 109).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff

Pro Se

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 1, 2019

Hearing Room 1545

1:00 PM

2:19-20273 Alex Christopher Padilla

Chapter 11

#1.00 Hrg re: Motion to individual chapter 11 case for order authorizing use of cash collateral

Docket 19

Tentative Ruling:

Grant the motion (docket no. 19) on an interim basis, subject to the conditions set forth below, with a final hearing on 10/29/19 at 1:00 p.m., and a deadline of 10/3/19 for the movant to file and serve a notice of the final hearing provided that service on all persons with a potential interest in Debtor's cash must be served in strict compliance with Rule 7004 (Fed.R.Bankr.P.) - see the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov). Appearances required.

As to the cash that allegedly is collateral of Beverly Partners, LLC, continue this hearing pursuant to its stipulation with the debtor (dkt.31) and this Court's order thereon. As to all properties/sources of cash, Debtor must segregate cash so that there is no commingling.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits),

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1:00 PM

CONT... Alex Christopher Padilla

Chapter 11

and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless

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CONT... Alex Christopher Padilla

Chapter 11

otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

Party Information

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CONT... Alex Christopher Padilla

Chapter 11

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

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1:00 PM

2:19-20273 Alex Christopher Padilla

Chapter 11

#2.00 Cont'd status conference re: Chapter 11 case
fr. 9/17/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/1/19:

Appearances required by counsel for Debtor(s) and by Debtor himself.

(1) Current issues

(a) Cash collateral motion

Grant (subject to this Court's standard conditions, see calendar no.1, 10/1/19 at 1:00 p.m.), provided that Debtor must address why this motion was not self-calendared for hearing until over a month after the petition date, and whether, meanwhile, has Debtor (i) been using cash collateral without authorization (in violation of 11 U.S.C. 363(c)) or (ii) not been using cash collateral, and hence failing to pay ordinary and necessary business and personal expenses, in violation of Debtor's duties to pay postpetition debts as they come due and preserve and maximize the value of the bankruptcy estate. 11 U.S.C. 1107(a) and 1108, and 28 U.S.C. 959(b). The tentative ruling is that, although this is not yet sufficient cause for appointment of a chapter 11 trustee or other remedies, it may factor into consideration of any such remedies in future.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (see Order, dkt.28).

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Alex Christopher Padilla

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for Debtor(s) and by Debtor himself.

(1) Current issues

(a) Budget Motion

Debtor's status report incorrectly states that a budget motion is not required by the presiding judge's procedures. Dkt. 20, p.3. See posted Procedures of Judge Bason (available at cacb.uscourts.gov) (the "Bason Procedures") Section VII.G. In addition, a budget motion appears to be particularly important in this case because most of Debtor's income and expenses are effectively hidden and/or mis-reported.

Debtor's Bankruptcy Schedule I reports that he is an interior designer/hair stylist (dkt.22, at PDF p.27), his Statement Of Financial Affairs ("SOFA") lists various "dba" enterprises that might or might not reflect other business ventures, and Debtor apparently rents out some of his properties using Airbnb, but there is no breakdown of any of this. Contrary to the instructions on line 8a of Schedule I, debtor lists only a total net dollar amount for all businesses/properties combined - \$22,598.00 per month - and fails to attach a statement for each business/property showing gross receipts, ordinary and necessary business expenses, and the calculation of net income. Also, in apparent contradiction of this alleged monthly net income, the SOFA (dkt. 22 at PDF p.31) lists gross income of \$20,000 for the year to date (9 months), \$7,875 for 2018, and \$28,223 for 2017. (Perhaps Debtor listed monthly net income instead of yearly gross income - if so he must file a corrected SOFA.)

The tentative ruling is to direct Debtor to file an amended Schedule I and an amended SOFA, and to file and serve a budget motion and any other documents that are necessary or appropriate to correct the foregoing deficiencies, no later than 9/27/19.

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CONT...

Alex Christopher Padilla

Chapter 11

(b) Bankruptcy Schedule G

Debtor lists no executory contracts or unexpired leases (dkt.22, at PDF p.24). What about Airbnb and/or other short-term or long-term rental arrangements? The tentative ruling is to direct Debtor to file an amended Schedule G no later than 9/27/19.

(c) Cash collateral

Even though this case was filed on 8/30/19, Debtor did not self-calendar his cash collateral motion for hearing until over a month later, on 10/1/19 at 1:00 p.m. Meanwhile, has Debtor (i) been using cash collateral without authorization (in violation of 11 U.S.C. 363(c)) or (ii) not been using cash collateral, and hence failing to pay ordinary and necessary business and personal expenses, in violation of Debtor's duties to pay postpetition debts as they come due and preserve and maximize the value of the bankruptcy estate. 11 U.S.C. 1107(a) and 1108, and 28 U.S.C. 959(b). The tentative ruling is that, although this is not yet sufficient cause for appointment of a chapter 11 trustee or other remedies, it may factor into consideration of any such remedies in future.

(d) Employment Application

The tentative ruling is to set a deadline of 9/27/19 for Debtor to file and serve local form F 2014-1.STMT.DISINTERESTED.PROF in support of Debtor's application to employ Eric Bensamochan as his bankruptcy counsel (dkt. 18). See Bason Procedures Section VII.D.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/1/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... Alex Christopher Padilla

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

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Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#3.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19, 8/20/19, 9/17/19

Docket 42

Tentative Ruling:

Tentative Ruling for 10/1/19:

Appearances required.

(1) Current issues

(a) Retention of replacement counsel

At the hearing on 9/17/19, this Court denied Debtors' application to employ the Law Offices of Lionel Giron (see dkt. 83). Debtors should be prepared to address whether they have retained new counsel and what is the appropriate disposition of this case.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: TBD at the status conference.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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1:00 PM

CONT... Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

Tentative Ruling for 9/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed orders: Debtor is directed to lodge proposed orders on the following matters via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(1) Current issues

(a) Amended budget motion (dkt. 72)

Grant.

(b) Employment application, Law Offices of Lionel E. Giron (dkt. 50), United States Trustee's ("UST") opposition (dkt. 61), Mr. Giron's reply (dkt. 65), Mr. Giron's supplemental declaration (dkt. 73), and the UST's reply (dkt.76)

Deny. At the last hearing this Court set a deadline of 9/3/19 for supplemental declarations of Mr. Giron and Mr. Egbase, and as of the date of this tentative ruling, only the former has been filed, and that is insufficient for the reasons stated at the hearing and in the UST's reply. See dkt. 73, 76.

The parties should be prepared to address how Debtors will transition to new counsel.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... **Angel Rodriguez Lara and Angelica Soto Calva** **Chapter 11**

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Lionel E Giron
Joanne P Sanchez

Joint Debtor(s):

Angelica Soto Calva

Represented By
Lionel E Giron
Joanne P Sanchez

**United States Bankruptcy Court
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Tuesday, October 1, 2019

Hearing Room 1545

2:00 PM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

Adv#: 2:19-01232 Steyn v. Karl S. Reinecker, An Accountancy Corporation et a

#1.00 Hrg re: Motion to Dismiss Adversary Proceeding;
Including Motion to Compel Arbitration and Stay

Docket 5

***** VACATED *** REASON: Cont'd to 11/5/19 at 2:00 pm [Dkt. #9]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Defendant(s):

Karl S. Reinecker, An Accountancy

Represented By
Lewis R Landau

Marquee Funding Group, Inc.

Represented By
Lewis R Landau

DOES 1-10

Pro Se

Plaintiff(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. Bank of America, N.A. et al

- #2.00** Cont'd status conference re: Complaint for (1) Wrongful Foreclosure; (2) Violation of California Civil Code § 2934a(a)(1)(A)(C)(D); (3) Intentional Misrepresentation; (4) Negligent Misrepresentation; (5) Violation of California Business & Professions Code § 17200, Et Seq.; (6) Violation of Homeowner Bill of Rights ("HBOR"); (7) Breach of Contract; (8) Fraud; (9) False Promise; (10) Intentional Infliction of Emotion Distress; (11) Negligent Infliction of Emotional Distress; (12) Declaratory Relief; (13) Violation of Automatic Stay
fr. 7/30/19, 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/1/19:

Continue to 11/5/19 at 10:00 a.m. so that this Court can review any response to Debtor/Plaintiff's First Amended Complaint (adv. dkt. 45). Appearances are not required on 10/1/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required. The tentative ruling is (A) to grant the defendants' motions to dismiss Debtor's Complaint (the "MTDs," adv.no. 2:19-ap-01103-NB), without leave for Debtor to amend his Complaint, (B) to deny Debtor's motion for contempt (the "Contempt Motion," dkt. 197), without leave to amend that motion, and (C) to continue the status conference in this adversary proceeding to 10/29/19 at 2:00 p.m., and set a concurrent status conference in the bankruptcy case itself, with a direction to Debtor to file a

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2:00 PM

CONT... **Juernaldo Cordon Cruz**

Chapter 11

brief status report in both proceedings no later than 10/15/19.

(1) Overview

(a) Contentions

The parties' disputes arise from a stipulation gone wrong. See Stip. (dkt. 135, the "Stipulation"), approved by Order (dkt.107). Debtor asserts that the Stipulation had the effect of substituting him in place of the original borrower. Debtor claims that the bearer of the promissory note, Bank of America, N.A. ("BofA"), and its agents including its loan servicers (with BofA, "Creditors"), wrongfully refused to communicate with him, refused to accept some payments, and wrongfully foreclosed on his rental property at 12902 Fairford Ave., Norwalk, CA (the "Fairford Property").

Creditors assert that Debtor was never substituted as a new borrower. They dispute that they ever refused to accept any payments.

Alternatively, Creditors argue that, even if there is a factual dispute about whether Debtor tendered some payments, Debtor never alleges in his Complaint that he tendered all payments. In fact, according to Creditors, Debtor failed to make a substantial number of payments - *i.e.*, even if he had been substituted as the borrower under the loan documents he was in default anyway, so the Fairford Property was subject to foreclosure.

(b) Summary of analysis

As set forth below, a fair reading of the Stipulation is that, as Debtor asserts, he was effectively substituted for the original borrower. In effect, the Stipulation and the Plan rewrote the terms of the loan and made Debtor the borrower and mortgagor.

But Debtor does not allege in his Complaint or in his opposition to Creditors' MTD that he tendered the (much reduced) payments he promised. So the Fairford Property was subject to foreclosure regardless whether he was or was not recognized as the borrower.

Debtor also complains that the creditors refused to communicate with him, but he has not alleged how any lack of communication caused him any harm, or how a failure to communicate is itself grounds to state some sort of a claim (*e.g.*, some sort of presumptive statutory damages for non-communication).

The tentative ruling is that Debtor's Complaint does not state a claim either based on any allegedly wrongful refusal to accept payments, or for failure to communicate, or for foreclosure. Therefore it appears appropriate

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to grant the MTDs, and the remaining question is whether to grant leave to amend.

Conceivably Debtor could assert that, if he had only been able to communicate with Creditors, they might have granted him a further loan modification. That might (or might not) state a claim under the Homeowner Bill Of Rights ("HBOA") (Cal.Civ.C. 2923.7) or some other claim.

But any allegation that Debtor was deprived of an opportunity to obtain a further loan modification appears to be implausible, on the record presently before this Court. BofA and Debtor previously stipulated that it had a secured claim of \$383,000.00 (Stip., dkt. 105, p.3:22-24), but BofA nevertheless agreed to modify the loan down to \$250,000.01 (Disclosure Statement, Ex.H, Endnote 2, at dkt.130-2, PDF p.3), as a result of which Debtor now asserts that he had \$200,000 of equity in the Fairford Property (dkt. 197, p.11:13-18). This Court is not aware of any reason why a creditor who is (allegedly) so oversecured would voluntarily agree to write down its debt even further, so it is not apparent how Debtor was harmed by any inability to communicate with Creditors. Therefore, the tentative ruling is to grant the MTDs without leave to amend.

Debtor's Contempt Motion is subject to the same obstacles set forth above: (i) Debtor's apparent lack of harm from refusal to accept partial payments, because he could not afford full payment; and (ii) the lack of apparent harm from non-communication, because he had no plausible ability to obtain a further loan modification.

Alternatively, the Contempt Motion is subject to a more fundamental flaw: Debtor asserts violation of the discharge injunction, but he never obtained a discharge order. Alternatively, Debtor has not alleged any *in personam* collection efforts, only *in rem*, and *in rem* acts do not violate any discharge injunction.

For each of these alternative reasons, the tentative ruling is to deny the Sanctions Motion without leave to amend.

(2) Procedural history

Two separate proceedings are involved.

(a) The Complaint

On 4/9/19 Debtor filed a Complaint commencing an adversary proceeding (the "Complaint," adv. no. 2:19-ap-01103-NB, adv. dkt. 1). The Complaint seeks damages of not less than \$1.5 million (*id.*, p.33:23), based

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on claims for wrongful foreclosure, intentional and negligent misrepresentation, fraud, violation of the HBOR, violation of the automatic stay (11 U.S.C. 362(a)), etc. The Complaint names as defendants BofA; Fay Servicing, LLC ("Fay"); Wilmington Savings Fund Society, FSB d/b/a Christiana Trust, Not Individually But As Trustee For Hilldale Trust ("Wilmington"); BSI Financial Services, Inc. ("BSI"); and National Default Servicing Corporation ("NatDefault").

Responding to the Complaint, MTDs have been filed by BofA (adv.dkt.8,9) and by Fay, Wilmington and BSI (collectively, the "Fay Parties," adv.dkt.11,13). NatDefault has filed a joinder in the Fay Parties' MTD (adv.dkt.15). Debtor has filed opposition papers (adv.dkt. 24-27), and BofA and Fay have filed replies (adv.dkt. 28, 29).

(b) Contempt Motion

On 6/26/19 Debtor filed a motion for damages pursuant to 11 U.S.C. 105 (the "Contempt Motion," dkt. 197). The Contempt Motion seeks damages of \$400,000 in emotional distress damages, \$200,000 for loss of equity to the property, \$70,000 for improvements to the property, and miscellaneous other damages. Dkt. 197, p.11:13-18. The Contempt Motion alleges that BofA willfully failed to adhere to the terms of the Stipulation, and it asserts that in doing so BofA violated the discharge injunction (11 U.S.C. 524(a)(2), as modified by 11 U.S.C. 1141(d)(5)).

Responding to the Contempt Motion, BofA has filed opposition papers (dkt. 205, 206). So have the Fay Parties (dkt.202-04), on the basis that Debtor "implies that Fay and BSI could be liable for their conduct in servicing the loan and in proceeding with foreclosure." Adv.dkt.202, p.2:20-21. Debtor has filed reply papers (dkt. 208).

(3) Procedural issues

(a) Jurisdiction, and request for abstention

BofA argues that Debtor asserts only State law claims. See BofA MTD (adv.dkt.8) p.1:13-14. The Fay Parties make a similar argument. See Reply-MTD (adv.dkt.28) pp.3:7-4:26. Based on these assertions they question this Bankruptcy Court's jurisdiction and assert that this Court should abstain.

Those arguments are not persuasive. First, technically, Debtor's Complaint (adv.dkt.1) asserts a claim for violation of the automatic stay (11 U.S.C. 362(a)), and Debtors' Contempt Motion (main case, dkt. 197) asserts a violation of the discharge injunction (11 U.S.C. 524), and those are claims

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arise under the Bankruptcy Code. True, this Court's tentative ruling is that neither claim has merit, but until this Court reaches the merits those claims do create "arising under" jurisdiction. 28 U.S.C. 1334.

More importantly, the remaining claims asserted by Debtors are founded on the Stipulation and, at least implicitly, Debtors' chapter 11 plan (the "Plan," dkt.129) and this Court's orders approving the Stipulation (dkt.107) and confirming the Plan (the "Confirmation Order," dkt.151). The effect of all of those things (according to Debtors, and this tentative ruling) was to restructure Debtor's relationship with BofA and substituting Debtor in place of the original borrower.

The Stipulation, the Plan, and this Court's orders all arose in this bankruptcy case, and this Court is in the best position to interpret the Stipulation, the Plan, and this Court's own orders based on the facts and circumstances of this bankruptcy case. In addition, the Plan provides that (with inapplicable exceptions) this Court retains post-confirmation jurisdiction over a wide range of proceedings, including "sanctions" and "the implementation, interpretation, or enforcement of this Plan" See Plan, dkt.129, p.6, Article V, Part. F.

For all of these reasons the tentative ruling is that this Court has jurisdiction, and that abstention would be inappropriate. See 28 U.S.C. 1334 and *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559-60 (Bankr. C.D. Cal. 2004); *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

(b) Whether the Contempt Motion should have been filed in the adversary proceeding instead of the bankruptcy case

In general, civil contempt must be sought by a contested matter rather than an adversary proceeding. See *Barrientos v. Wells Fargo Bank, N.A.*, 633 F.3d 1186, 1190-91 (9th Cir. 2011). But in this instance the Contempt Motion, which was filed in the main case (albeit with the double-caption of an adversary proceeding) arises from the same nucleus of operative facts as the Complaint, and in addition the Contempt Motion was filed after the Complaint, so perhaps Debtors' claim about violation of the discharge injunction and request for sanctions should have been included in the adversary proceeding, either as one of Debtor's claims or perhaps as a separate motion. But the tentative ruling is not to address this issue: it has not been briefed, and the tentative ruling is that this Court need not decide this issue *sua sponte*. See

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In re Nash, 464 B.R. 874, 879 (9th Cir. BAP 2012) (harmless error to use wrong proceeding).

(4) Merits of the MTDs and the Complaint

(a) Interpretation of the Stipulation, and related documents

The stipulation (dkt. 197, Ex.C, at PDF pp.22-28) reads like an agreement to treat Debtor as the substituted borrower. It obligates Debtor to make payments on BofA's secured claim in a specified dollar amount each month, at a specified interest rate, and provides that BofA will retain its security interest "until the secured claim is paid in full per the terms of the Note and Deed of Trust as modified by this Stipulation." *Id.* para.4. Why would Debtor and BofA agree to these things unless they intended to treat Debtor as the new mortgagor?

Even more telling, the remaining portion of BofA's claim is treated as an unsecured claim against Debtor (*id.*, para. 7) - in other words, Debtor is treated as having personal liability on the debt. Why would BofA and Debtor so stipulate unless Debtor had been substituted for the original borrower under the promissory note?

The Stipulation is incorporated into the Plan and the Confirmation Order. The latter states that "Class 2B creditor, Bank of America, N.A. ("B of A"), shall be entitled to immediate relief from the automatic stay and the claim shall be treated consistent with the Stipulation between Debtor and B of A (Docket No. 105), approved by Order of the Court (Docket No. 107)." Confirmation Order (dkt.151), p.2:18-21 (emphasis added).

For all of these reasons, the tentative ruling is that Debtor's interpretation of the Stipulation is correct. Debtor should have been recognized by BofA as having been substituted for the original borrower, and, at least once this was pointed out to BofA, it should have corroborated that fact to the other Creditors.

The question is whether Debtor has asserted any cognizable claims based on Creditors' refusal to recognize him as the borrower. The tentative ruling is that Debtor has not stated any such claims.

(b) Debtor's allegations: not accepting payments; not communicating; and foreclosing

Debtor asserts a failure to accept some payments. See, e.g., Complaint (adv.dkt.1) para.113, at p.23:21-26. Creditors dispute this, and also assert that Debtor never tendered enough to cure the defaults. Debtor's

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allegations in the Complaint never say otherwise. BofA cites authority that this is fatal to Debtor's claims for wrongful foreclosure. See BofA MTD (adv.dkt.8), pp.8:17-9:11.

Debtor also cite no authority that there is any duty to accept partial payments. Nor does Debtor explain how, even if there was such a duty, he was damaged by the refusal to accept partial payments. If he could not afford to make full payments, he was subject to foreclosure, and therefore if he was prevented from making partial payments it appears that he was only prevented from throwing good money after bad.

The Complaint alleges a failure to communicate with Debtor, but most of Debtor's claims do not assert any duty to communicate with him. An exception is the 6th claim for relief (adv.dkt.1, p.20:12 et seq) asserts violation of the HBOR (Cal.Civ.C. 2923.7) which does appear to establish a duty to communicate with the borrower (through a single point of contact). But, again, it is unclear how Debtor suffered any harm from any lack of communication.

To the contrary it appears that lenders have no duty to offer, consider, or approve loan modifications. See, e.g., *Sheen v. Wells Fargo Bank, NA*, ___ Cal.App.5th ___ (2d Div. 8/5/2019).

The Complaint's eighth claim for relief (adv.dkt.1, p.25:3 et seq.) alleges fraud in inducing Debtor to enter into the Stipulation if, despite making payments, Debtor would be subject to foreclosure. There appear to be grounds for that assertion but, again, Debtor has not established any harm from Creditors' failure to recognize him as successor to the original borrower pursuant to the Stipulation, because he has not asserted that he tendered the full monthly payments.

As set forth in the Overview (part "(1)" of this tentative ruling) the bottom line is that the Complaint does not appear to state any claims on which relief may be granted. Nor is it apparent how Debtor could amend the Complaint to state a viable claim.

(5) Merits of the Contempt Motion

Debtor seeks a determination that Creditors are in contempt of court for violation of the discharge injunction, and Debtor seeks compensatory damages, pursuant to 11 U.S.C. 105(a). See Contempt Motion (dkt. 197), p.8:22-24 (asserting violation of "an order issued by this Court - i.e., the Discharge Order"). See also, e.g., *In re Dyer*, 322 F.3d 1178, 1190 (9th Cir.

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2003). Debtor has the burden to establish, by clear and convincing evidence, that Creditors violated a specific and definite order of this Court, including a "deemed" order such as the automatic stay (11 U.S.C. 362) or the discharge injunction (11 U.S.C. 524). See *id.* and *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999).

(a) Debtor has not established that he ever received a discharge

Debtor has not established any violation of a discharge injunction because, under 11 U.S.C. 1141(d)(5), an individual debtor is not discharged "until the court grants a discharge on completion of all payments under the plan," unless the court orders otherwise for cause after notice and a hearing. Nothing in the Plan or the Confirmation Order suggests otherwise. See Plan (dkt.129), Article IV.A. (discharge is per section 1141(d)); Confirmation Order (dkt. 151) (all terms and conditions of Plan are incorporated into order).

For this reason, this Court's local forms permit a chapter 11 case to be closed on an interim basis and reopened later "so that a motion for entry of discharge ... may be filed and resolved." See dkt. 170, p.3, para.3.b. The docket does not reflect any motion for entry of a discharge, and the 60 month term of the Plan has yet to run, so apparently he is not yet eligible for a discharge. Accordingly, there could be no violation of any discharge injunction.

(b) The discharge injunction only prohibits *in personam* collection, and Debtor only alleges *in rem* acts

The discharge injunction in section 524 states:

(a) A discharge under this title --

(2) operates as an injunction against the commencement or continuation of an action, the employment of process, or any act, to collect, recover or offset any [discharged] debt as a personal liability of the debtor, whether or not discharge of such debt is waived [11 U.S.C. 524(a)(2) (emphasis added)]

Because the discharge injunction only prohibits efforts to collect debts as a personal liability of the debtor, "secured creditors can foreclose their liens after the discharge is entered." *In re Marino*, 577 B.R. 772, 783-84 (9th Cir. BAP 2017) (citations and internal quotation marks omitted)).

Debtor does not allege any *in personam* collection efforts. He asserts wrongful foreclosure, but foreclosure is an *in rem* act. Therefore, even if the discharge injunction applied (which it does not), Debtor's allegations would not establish any violation of that injunction.

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(6) Conclusion

For all of the foregoing reasons, the tentative ruling is to grant the Creditors' MTDs, dismiss the Complaint without leave to amend, and deny Debtor's Contempt Motion without leave to amend. The tentative ruling is to continue the status conferences so that the parties have time to consider what they will do next, and so that this Court can address any ancillary matters that may be presented.

Tentative Ruling for 7/30/19:

Continue to 8/20/19 at 2:00 p.m. (1) in view of the notice of unavailability of Plaintiff/Debtor's counsel (adv. dkt. 20) and (2) to be concurrent with the pending motions to dismiss (adv. dkt. 8, 11, 15). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By

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Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

National Default Servicing

Represented By
Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

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Adv#: 2:19-01028 Affeld Grivakes LLP v. Pachulski

#3.00 Cont'd Status Conference re: Complaint for 1) Declaratory Relief; 2) Enforcement of Lien fr. 04/02/19, 06/04/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/1/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 4 (10/1/19 at 2:00 p.m.).

Tentative Ruling for 7/30/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 14 (7/30/19 at 11:00 a.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 4) and the other filed documents and records in this adversary proceeding.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether

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the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 4/16/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 1/29/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 7/9/19, subject to adjustment at next status conference depending on Alvarez issues (see Status Report, adv. dkt. 4, section G).

Expert(s) - deadline for reports: 7/23/19 (subject to same adjustment)

Expert(s) - discovery cutoff (if different from above): 8/6/19 (subject to same adjustment)

Dispositive motions to be heard no later than: TBD

Joint Status Report: 5/21/19.

Continued status conference: 6/4/19 at 11:00 a.m.

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Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD
(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Richard M Pachulski

Represented By
James KT Hunter

Plaintiff(s):

Affeld Grivakes LLP

Represented By
Damion Robinson

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19, 9/10/19

Docket 323

Tentative Ruling:

Tentative Ruling for 10/1/19:

Appearances are not required on 10/1/19. See below for tentative dispositions of various matters, and continuances.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases and associated matters: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."); (c) *Pimentel v. Layfield et al.*, Adv.No. 2:19-ap-01069-NB ("Pimentel Adv."); (d) *Affeld Grivakes LLP v. Pachulski*, Adv. No. 2:19-ap-01028-NB ("Affeld Grivakes Adv.").

(b) Affeld Grivakes Adv, status conference

This Court has reviewed the parties' joint status report (Affeld Grivakes Adv.dkt.9). The tentative ruling is to set a discovery cutoff of October 31, 2019, a trial date of 12/3/19 at 9:00 a.m., and a pretrial conference of 11/12/19 at 2:00 p.m. The parties are directed to review the posted Procedures of Judge Bason regarding trials (available at www.cacb.uscourts.gov).

(c) L&B, status conference

Continue to 10/15/19 at 2:00 p.m., to be heard concurrently with related matters. No status report required.

(d) Lay-Invol, status conference

Continue to 10/15/19 at 2:00 p.m., to be heard concurrently with

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related matters. No status report required.

(e) Pimentel Adv., Affeld Grivakes' motion to dismiss first amended complaint (adv. dkt. 24) ("MTD"), Mr. Pimentel's opposition (adv. dkt. 30), Affeld Grivakes' reply (adv. dkt. 32)

The tentative ruling is to grant the MTD, without leave to amend, *only as against Affeld Grivakes LLP* ("Affeld-G"), as follows.

(i) Plaintiff has not alleged sufficient facts to state a claim for constructive trust or restitution, and any associated declaratory relief

Plaintiff's first claim for relief appears in parts to seek only declaratory relief, and in other parts it apparently seeks a constructive trust against settlement proceeds that allegedly were used to fund the litigation of cases transferred from Layfield & Barret (the alleged alter ego of Mr. Layfield) to Mr. Barrett and then from him to Affeld-G. Specifically, Plaintiff alleges that an unspecified amount of funds owed to Plaintiff "were used to fund one or two of Layfield's pending contingency fee cases." (First Amended Complaint ("FAC"), adv. dkt. 20, p. 8:3-4).

Plaintiff has not cited any legal authority establishing the imposition of a constructive trust on facts similar to those alleged in the FAC – *i.e.* where Plaintiff's money was allegedly converted into services that were commingled with other services that resulted in a recovery in a different case. The tentative ruling is that this is several "bridges too far" - Plaintiff may well have a claim against L&B and/or Mr. Layfield (and possibly others, such as Mr. Barrett), but the FAC fails to allege sufficient grounds for the imposition of any constructive trust in these circumstances.

Absent any constructive trust, the other aspects of this claim for relief do not appear to have any basis. The tentative ruling is that Plaintiff has failed to state a claim for relief for declaratory relief, the imposition of a constructive trust, or restitution.

(ii) Plaintiff has not alleged sufficient facts to state a claim for relief under 727(a)(2)

Plaintiff's second claim for relief asserts a claim under 11 U.S.C. Section 727(a)(2). Although Plaintiff argues in opposition to the MTD that he has alleged sufficient facts to state a claim for avoidance of a fraudulent transfer (adv. dkt. 30, p. 13:1-3), he insists that he is only seeking relief under Section 727 and not 11 U.S.C. 548 (*id.*, p. 30:5-14). Because Section 727 is limited to whether to grant or deny a debtor's discharge, and Affeld-G is not a

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debtor, Plaintiff has not and cannot state a claim against Affeld-G under Section 727(a)(2).

(iii) Plaintiff's request for leave to amend

The tentative ruling is that, for the reasons stated above, leave to amend would be futile. The tentative ruling is to dismiss the complaint (solely as against Affeld-G) without leave to amend.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences (L&B and Lay-Invol): continue to 10/15/19 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

Revised Tentative Ruling for 9/10/19

Appearances required, except for in *Pachulski v. Young et al.*, Adv. Case No. 2:18-ap-01233-NB.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases and associated matters: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."); (c) *Pachulski v. Young et al.*, Adv. Case No. 2:18-ap-01233-NB ("Preference Adv."); (d) *Pimentel v. Layfield et al.*, Adv. Case No. 2:19-ap-01069-NB ("Pimentel Adv."); (e) *Pachulski v. Layfield et al.*, Adv. Case No. 2:19-ap-01071-NB ("Dischargeability Adv.")

On the individual motions discussed below, this Court anticipates issuing a written "Memorialization of Tentative Rulings" which can then be incorporated by reference into the orders on each motion, subject to any changes to the tentative rulings that this Court may make at the hearing.

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(b) Mr. Layfield has not filed adequate proofs of service

Mr. Layfield's papers lack adequate proofs of service. He apparently takes the position that this Court has excused him from serving papers and/or filling out proofs of service. He is wrong.

Mr. Layfield's position is reflected in his recent proofs of service (Lay-Invol. dkt.243 & 244, p.3, para.2) which assert that the "clerk [of this Court] shall issue NEF and Debtor is not required to serve those parties on List to Receive NEF," allegedly pursuant to "10/22/18 Docket #128 [sic]." (Emphasis added.) The referenced Docket #128 is irrelevant: it is a proof of service of a joinder in the involuntary petition. See L&B dkt.128.

Mr. Layfield apparently means to refer to this Court's "PDF Protocol" (Lay-Invol. dkt.88, adopted by Order at Lay-Invol.dkt.111, p.3:8-11 and L&B dkt.367). The PDF Protocol is a special accommodation to Mr. Layfield: as set forth in therein, he had (among other things) filed one motion that he estimated to be 3,500 to 4,000 pages long, and such voluminous papers were causing an undue burden and delays for all parties in interest and this Court's staff; but, rather than limit the number of pages that Mr. Layfield could file, this Court adopted the PDF Protocol.

The PDF Protocol requires Mr. Layfield (i) to file documents in PDF format on CDs and (ii) to serve "each person whom he is required to serve under the applicable rules or any orders of this Court" by mailing them such CDs with PDFs. Lay-Invol.dkt.88, p.5:3-14. Notwithstanding this special requirement (to serve CDs with PDFs via U.S. mail), Mr. Layfield is excused from serving CDs for those parties who are served via NEF. *Id.* But nothing excuses him from the requirements that he, like every other party, must serve everyone who is required to be served and file a proof of service, which must identify who was served via NEF.

These requirements are important. Among other things, not everyone is served via NEF, and even for those parties who are on NEF a proper proof of service is required to identify those parties, including an explicit indication of how they are "related to the case or adversary proceeding." LBR 9013-3(d); *and see* LBR 9001-1(39), 9013-1(e). For example, if there were a hypothetical NEF email address of "xyz@randomemail.com" that would not identify who was served, so a proper proof of service should state something like: "John Doe, Esq., Attorney for Bank of the North Pole, at xyz@randomemail.com." Otherwise parties in interest, and this Court, are not

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notified who was actually served.

There are numerous other problems with Mr. Layfield's service of papers. Examples include failure to state what document was (allegedly) served, failure to have someone (not a party to the proceeding) sign the proof of service, and failure to serve persons who are required to be served. These defects are addressed below if they appear sufficiently problematic to affect the outcome.

(c) Mr. Layfield has failed to establish that he has standing and/or is the real party in interest

This Bankruptcy Court has an independent duty to consider whether any person who seeks or opposes any relief has standing to do so. This Court also must consider the closely related concept of whether such person is the real party in interest. See *In re Veal*, 450 B.R. 897, 906-08 (9th Cir. BAP 2011).

Mr. Layfield has not established how he has standing and is the real party in interest in any of the matters on which he has filed papers. In general a chapter 7 debtor is supplanted by a bankruptcy trustee who controls the bankruptcy estate, and such a debtor lacks standing, and is not the real party in interest, (a) to pursue any claims that used to belong to the debtor and now belong to his bankruptcy estate (*i.e.*, any claims that Mr. Layfield might have had against the L&B chapter 11 estate generally belong to his chapter 7 bankruptcy estate, and are controlled by the Lay-Invol Trustee, not by Mr. Layfield), (b) to object to creditors' claims, (c) to seek removal of a chapter 7 or chapter 11 trustee, or (d) to request any similar relief in the chapter 7 or chapter 11 cases.

In common sense terms, how a chapter 7 bankruptcy estate is administered and divided among creditors is a matter of concern to creditors, not a chapter 7 debtor. There is an exception if, for example, the chapter 7 debtor provides evidence of the likely solvency of the bankruptcy estate, because then the allowance or disallowance of claims might actually affect the debtor. But Mr. Layfield's motion papers provide no evidence that the estate is solvent or any other relevant facts. Accordingly the tentative ruling is that he has forfeited any such arguments.

Alternatively, even if this Court did not start with the usual rule that a chapter 7 debtor generally lacks standing, the tentative ruling is that there is *prima facie* evidence in the record of these particular cases that Mr. Layfield

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lacks standing and is not the real party in interest. Mr. Layfield has not rebutted that evidence.

To be clear, this Court is not ruling that it would be impossible for Mr. Layfield to establish that he has standing and is the real party in interest. Perhaps he could have done so. The point is only that, on the present record, he appears to lack standing and not be the real party in interest, and he has failed to show otherwise.

Alternatively, this Court is addressing the merits as set forth below.

(d) Mr. Layfield's motion to compel (L&B dkt. 443), Chapter 11 Trustee's opposition (L&B dkt. 452), and Mr. Layfield's Reply (L&B dkt. 453, filed 9/9/19 at 3:17 p.m.)

(i) Striking the motion is an appropriate remedy for Mr. Layfield's use of these proceedings for improper purposes

The tentative ruling is to strike the motion to compel for the reasons stated in the Chapter 11 Trustee's opposition. See L&B dkt.452, pp.6:17-7:24. Specifically, the tentative findings of fact are that Mr. Layfield, as a (former) attorney with years of experience, is well aware of the need to file motion papers with evidence and citations to appropriate authority; in addition and alternatively he has been warned repeatedly by this Court of the need to do so; and on the present record the tentative ruling is that this Court must find that his continued failure to do so is for the improper purpose of attempting to harass the L&B Trustee and needlessly increase the cost of litigation, and that the appropriate remedy is to strike his motion.

Likewise, the tentative ruling is that even if the motion is not struck the reply must be struck because it cites no authority or evidence and was filed so late.

(ii) Alternatively, the motion was not properly served

The tentative ruling is that Mr. Layfield was required to serve "all creditors" and other parties in interest with his motion, pursuant to Rule 2002(a)(2) (Fed. R. Bankr. P.). In seeking to compel the L&B Trustee to expend estate resources to attempt to reconstruct L&B records and file tax returns or do other acts, contrary to the business judgment of the L&B Trustee, Mr. Layfield is proposing a extraordinary "use" of property of the bankruptcy estate within the meaning of that rule.

Alternatively, the tentative ruling is that under Rule 9007 and 9013(b), all creditors and parties in interest must be served. In addition, basic notions

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of due process require that all creditors and parties in interest be informed of a request for an order compelling the bankruptcy estate to use resources (potentially very substantial resources) to perform acts that might be of little or no benefit to the estate and creditors, and might even be a detriment (by wedding the estate to a position as to historical facts that might not be true).

In addition, Mr. Layfield's proof of service is inadequate for the reasons noted in part "(1)(b)" of this tentative ruling.

For all of these reasons, the tentative ruling is that all creditors and parties in interest should have been served and that there is no proof of any such service. That is an alternative basis on which the motion must be denied.

(iii) Alternatively, Mr. Layfield has not established that he has standing or is the real party in interest

Mr. Layfield's last-minute Reply (L&B dkt. 453) fails to address the L&B Trustee's argument (L&B dkt.452, p.8:1-17) that he lacks standing. The tentative ruling is that he has forfeited any contrary argument.

Alternatively, even if contrary arguments are not forfeited, the tentative ruling is that, on the present record, there is *prima facie* evidence that Mr. Layfield lacks standing and is not the real party in interest, and Mr. Layfield has not rebutted that evidence. Of course, this Court recognizes that failure to file tax returns or other documents can give rise to penalties or other liabilities. But whatever tax returns were or were not filed during Mr. Layfield's tenure with L&B are matters of historical fact. He has not shown how the trustees' non-filing or delayed filing of tax returns (or any other acts that he seeks) would affect him in any way that would give him standing.

(iv) Alternatively, the motion must be denied on the merits

The tentative ruling is that it is appropriate for this Court to defer to the L&B Trustee's reasonable business judgment as to whether and how to attempt to reconstruct L&B's records, when and how to prepare and file tax returns, and other matters. The Trustee's opposition papers set forth more than adequate grounds for his exercise of that business judgment. See L&B dkt.452, pp.8:17-10:5. See *generally In re Pomona Valley Med. Group, Inc.*, 476 F.3d 665, 670 (9th Cir. 2006) ("courts are no more equipped to make subjective business decisions for insolvent business than they are for solvent businesses, so we have no difficulty concluding that its formulation in corporate litigation is also appropriate here") (citation omitted).

Proposed order: The L&B Trustee is directed to lodge a proposed

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order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(e) Pachulski v. Young et al., Adv. Case No. 2:18-ap-01233-NB
("Preference Adv."), status conference

Continue to 12/10/19 at 2:00 p.m., at the parties' request (adv. dkt. 29), with a *brief* status report due 11/26/19.

(f) Mr. Layfield's motion for relief from automatic stay ("R/S Motion," Lay-Invol dkt. 222), the opposition papers filed by Wellgen Standard, LLC ("Wellgen") (Lay-Invol dkt. 248) and the Chapter 7 Trustee (Lay-Invol dkt. 249), and Mr. Layfield's reply (Lay-Invol dkt.259, filed 9/9/19 at 3:05 p.m.)

(i) Striking the motion is an appropriate remedy for Mr. Layfield's use of these proceedings for improper purposes

Wellgen requests that this Court sanction Mr. Layfield by awarding attorney fees. See Lay-Invol dkt.248, p.5:5-15. A request for an award of attorney fees must be made by separate motion, at least if it is made pursuant to Rule 9011 (Fed. R. Bankr. P.). See *generally* Sanctions Table of Judge Bason, available at www.cacb.uscourts.gov under "Judges"/"Bason"/"Instructions" (the "Sanctions Table"). Nor has Wellgen set forth the precise legal basis, under Rule 9011 or any other grounds, for such an award.

Nevertheless, Wellgen's objection to Mr. Layfield's abusive tactics is well taken, and as set forth in part "(1)(d)(i)" of this tentative ruling, this Court has previously warned Mr. Layfield that he must file proper papers or he may be subject to consequences. As set forth above, the tentative findings of fact are that Mr. Layfield is using these proceedings for improper purposes, and the tentative ruling is that it is appropriate to strike the R/S Motion.

Alternatively, it is appropriate to strike Mr. Layfield's last minute reply.

(ii) Alternatively, Mr. Layfield lacks standing

The tentative ruling is that, as set forth in the opposition papers, Mr. Layfield, as the debtor in an apparently insolvent chapter 7 estate, lacks standing to seek the relief in the R/S Motion. Lay-Invol dkt.248 at pp.2:26-4:3, dkt. 249 at pp.2:18-3:3. In addition, the tentative ruling is that Mr. Layfield is not the real party in interest: the Lay-Invol Trustee is.

(iii) Alternatively, service is defective

Mr. Layfield's proof of service (Lay-Invol dkt.243, p.3) is defective for the reasons noted in part "(1)(b)" of this tentative ruling.

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(iv) Alternatively, the R/S Motion must be denied on the merits

As Wellgen points out, this Court has already ruled that, regardless whether Mr. Layfield was or was not properly served, Wellgen's claim against him is not subject to any *bona fide* dispute. See Lay-Invol dkt.162 (incorporating dkt.149 by reference), dkt.248 p.2:18-25. The Lay-Invol Chapter 7 Trustee agrees. See Lay-Invol dkt. 249.

(g) Mr. Layfield's motion for entry of an order finding the IRS in willful violation of the automatic stay (dkt. 239), Chapter 7 Trustee's opposition (dkt. 252)

(i) The motion must be denied for lack of proper service on the IRS

There is no proof of service evidencing service on the IRS at the address required by the Court's manual, available at cacb.uscourts.gov, Appendix D Section 2.1. The tentative ruling is to deny the motion on that ground.

To the extent that the motion seeks discovery, the tentative ruling is that without service on the IRS it is inappropriate to address that issue.

(ii) Alternatively, the tentative ruling is that the motion should be stricken because it is being used for improper purposes

Mr. Layfield asserts that the IRS has violated the automatic stay, but he cites very little legal authority and the only evidence to support Debtor's various factual allegations is one (inadequate) exhibit. That prejudices anyone who seeks to understand whether to support or oppose the motion, and it is particularly prejudicial to the IRS or anyone else who might seek to oppose the motion, because any such party must research and set forth all the legal standards that Mr. Layfield should have addressed, before addressing why those standards have or have not been met.

In other words, the IRS has to do the research that Mr. Layfield should have done to set forth the legal standards, then the IRS has to surmise what evidence Mr. Layfield might present to meet each element of his claims, and then the IRS has to present contrary arguments and evidence. That is using the motion to harass the IRS and to needlessly increase the costs of litigation for other parties.

(iii) Alternatively, on the merits, the motion must be denied

One of the essential elements for any claim for violation of the automatic stay is that there must be actual knowledge of the bankruptcy case.

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See *generally* Sanctions Table. It appears from the record before this Court that Debtor never complied with his obligation to file a creditor matrix, nor is there any other evidence of which this Court is aware that the IRS has had notice of this bankruptcy case.

As to the request for an order directing discovery, Mr. Layfield fails to cite any legal authority or any evidence to support his request. Nor has he explained how any non-filing of tax returns violates the automatic stay or any other statute or legal duty.

Proposed order: The Chapter 7 Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(h) Mr. Layfield's motion to disqualify Chapter 7 Trustee (Lay-Invol dkt. 241), Chapter 7 Trustee's opposition (Lay-Invol dkt. 251), creditor Mr. Rodney Pimentel's joinder (Lay-Invol dkt. 253), and Mr. Layfield's reply (Lay-Invol dkt.260)

Deny for lack of service on all creditors and parties in interest; for lack of standing/real party in interest; for the reasons stated in the opposition papers; and for the reasons stated in this Court's ruling on Mr. Layfield's prior Motion to Dismiss (Lay-Invol dkt. 207), reproduced below, and modified as shown in brackets:

... regarding Mr. Layfield's allegations about some sort of perceived conflict involving the Chapter 7 Trustee, his arguments are difficult to follow and both procedurally and substantively deficient. This Court has already rejected Mr. Layfield's challenges to the appointment of the Trustee. See [Lay-Invol] dkt. 149, 183. To the extent that Mr. Layfield raises new allegations, there is no explanation why they were not raised before; there is no citation to the standards for reconsideration (*e.g.*, under Rule 9024, Fed.R.Bankr.P.) nor any attempt to meet those standards; and his vague allegations are conclusory statements of opinion and legal conclusions without supporting facts. See [Lay-Invol] dkt. 207, p.4:11-18 & pp.11:21-12:5 (referencing *In re Adelman*, Case No. 2:15-bk-15952-RK). [See also Lay-Invol dkt. 241 at PDF pp.5:23-6:12 & pp.11:19-12:6 (referencing *In re Adelman*)]. In addition, this Court has reviewed the docket in the *Adelman*

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bankruptcy case, including the bankruptcy schedules (*id.* dkt.84), and is unable to discern any disqualifying facts. See 11 U.S.C. 327(c)(attorney's representation of creditor does not by itself disqualify such person from representing trustee).

Proposed order: The Chapter 7 Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B)

(i) Debtor's omnibus motion to stay bankruptcy proceeding and all related adversary proceedings (dkt. 224), and Chapter 7 Trustee's opposition (dkt. 250)

Deny for lack of service on all creditors and parties in interest, based on the same analysis stated above; and for the reasons stated in the opposition papers.

Proposed order: The Chapter 7 Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B)

(j) *Pimentel v. Layfield et al.*, Adv. Case No. 2:19-ap-01069-NB: Mr. Layfield's motion to dismiss first amended complaint (adv. dkt. 26), Plaintiff's opposition (adv. dkt. 28), and Mr. Layfield's reply (adv.dkt.29)

This Court has not prepared a tentative ruling on this matter.

(k) *Pachulski v. Layfield et al.*, Adv. Case. No. 2:19-ap-01071-NB: Mr. Layfield's motion for judgment on the pleadings (adv. dkt. 6), opposition (adv.dkt.8), and Mr. Layfield's reply (adv.dkt.10)

This Court has not prepared a tentative ruling on this matter.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences (L&B and Lay-Invol): continue to

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10/15/19 at 2:00 p.m., with a *brief* status report due 10/8/19.

*Warning: special procedures apply (see order setting initial status conference).

Tentative Ruling for 9/10/19

This Court anticipates posting a tentative ruling at a later time.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#5.00 Hrg re: Motion to dismiss first amended complaint
against Affeld Grivakes LLP

Docket 24

Tentative Ruling:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 4 (10/1/19 at 2:00 p.m.).

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#6.00 [Notice of Dismissal of Deft., Wesley H. Avery, Tr.]

Cont'd Status Conference re: Complaint Against Dischargeability
1) Declaratory Relief and 2) Fraudulent Transfer / Concealment
fr. 5/21/19, 06/04/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/1/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 4 (10/1/19 at 2:00 p.m.).

Tentative Ruling for 7/30/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 14 (7/30/19 at 11:00 a.m.).

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

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Chapter 7

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01070 Hickey v. Layfield

#7.00 Hrg re: Motion For Judgment on the pleadings

Docket 6

Tentative Ruling:

Deny for each of the reasons stated in the opposition (adv.dkt.8), except for the proof of service issue (*id.*, p.10:13-24). On that issue, although Plaintiff is correct that Defendant Mr. Layfield's proof of service was defective (adv.dkt.6, p.3), nevertheless Plaintiff's counsel was automatically served with the motion via this Court's NEF system (once the paper document was scanned and processed by this Court's staff). In all other respects the Opposition is persuasive. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

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CONT... Philip James Layfield

Chapter 7

Plaintiff(s):

Fred A. Hickey

Represented By
Derrick F Coleman

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

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Chapter 7

#8.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/1/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 4 (10/1/19 at 2:00 p.m.).

Tentative Ruling for 7/30/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 14 (7/30/19 at 11:00 a.m.).

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 10 (4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 6 (4/2/19 at 2:00 p.m.).

Tentative Ruling for 3/5/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 3 (3/5/19 at 2:00 p.m.).

Tentative Ruling for 2/5/19:

Please see the tentative ruling for the status conference in the *Layfield &*

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Chapter 7

Barrett case, calendar no. 9 (2/5/19 at 2:00 p.m.).

Tentative Ruling for 12/18/18:

Please see tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 12 (12/18/18 at 2:00 p.m.).

Tentative Ruling for 12/6/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (12/6/18 at 10:00 a.m.).

Tentative Ruling for 10/24/18:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case, calendar no. 5 (10/24/18 at 10:00 a.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the Layfield & Barrett matter (calendar no. 1, 9/18/18 at 2:00 p.m.).

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, October 2, 2019

Hearing Room 1545

2:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#1.00 Hrg re: Debtor's emergency motion for authority to (1) Pay pre-petition priority wages; and (2) Honor employment and benefit policies

Docket 2

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 4, 10/2/19 at 2:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, October 2, 2019

Hearing Room 1545

2:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#2.00 Hrg re: Debtor's emergency motion for entry of an order authorizing the debtor to implement and maintain case management system

Docket 4

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 4, 10/2/19 at 2:00 p.m.).

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, October 2, 2019

Hearing Room 1545

2:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#3.00 Hrg re: Debtor's emergency motion for Entry Of An Interim Order, Pending A Final Hearing, Authorizing The Debtor To Use Cash Collateral

Docket 5

Tentative Ruling:

Grant the motion (docket no. 5) on an interim basis, subject to any opposition at the hearing, the conditions set forth below, and the issues raised in the tentative rulings for the Status Conference (calendar no.4, 10/2/19 at 2:00 p.m.). Appearances required.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of

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CONT... **Tatung Company of America, Inc.**

Chapter 11

the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the

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CONT... **Tatung Company of America, Inc.**

Chapter 11

secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

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Los Angeles
Judge Neil Bason, Presiding
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CONT... Tatung Company of America, Inc.

Chapter 11

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Wednesday, October 2, 2019

Hearing Room 1568

2:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#4.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required. The parties are directed to address whether there was adequate notice of this hearing, and the merits of each motion, as set forth below.

(1) Notice of this hearing

Debtor must address whether the proof of service of the motion papers (the "POS," dkt.21) complies with this Court's order shortening time ("OST," dkt.10), or due process. The OST provides that the deadline for "**RECEIPT**" of written notice of this hearing/a copy of the OST is **10/1/19 at noon**. *Id.* (emphasis in original). In two ways, this Court questions whether the POS complies with this direction.

First, the POS only appears to assert that envelopes were dropped off with an (unspecified) "Overnight Mail" carrier on 10/1/19, which would mean that those envelopes would not be received until **10/2/19** at the earliest, possibly just shortly before the hearing or even after the hearing.

Second, this Court questions whether delivery really was "overnight" to Taiwan, South Korea, China, and other overseas destinations.

(2) Merits of each motion

If the foregoing notice issue is adequately addressed, the tentative rulings are as follows.

(a) Payroll motion (dkt. 2)

Grant on a final basis, subject to any opposition at the hearing, and subject to authorization to use cash collateral to make payroll (see below).

(b) Cash management motion (dkt.4)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing at the same time as the continued status conference (see below).

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CONT...

Tatung Company of America, Inc.

Chapter 11

(c) Cash collateral motion (dkt.5)

Debtor's budget (dkt.8, Ex.1) lacks historical context. Are the proposed expenditures and projected receipts in line with historical experience? Is it typical for Debtor's cash position to fluctuate so substantially from week to week? Are the goods that Debtor anticipates selling in keeping with Debtor's historical lines of business, and with existing customers, or is Debtor projecting the replacement of some past lines of business with new lines?

Subject to (i) adequate resolution of the foregoing, (ii) any opposition at the hearing, and (iii) the conditions set forth in calendar no. 3 (on 10/2/19 at 2:00 p.m.), the tentative ruling is to grant this motion on an interim basis, with a further interim hearing at the same time as the continued status conference (see below).

(d) Notice of continued hearings

The tentative ruling is to set a deadline of 10/3/19 for Debtor to file and serve via U.S. mail a notice of the continued hearings.

(e) Proposed orders

This Court anticipates filing a "Memorialization of Tentative Rulings." Debtor is directed to lodge proposed orders that reference that document and incorporate the tentative rulings as final rulings, except as they may be modified at the hearing. See LBR 9021-1(b)(1)(B).

(3) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/15/19 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Tatung Company of America, Inc. Chapter 11
are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Friday, October 4, 2019

Hearing Room 1545

10:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 11

#1.00 Hrg re: Motion for an order approving debtor/debtor in possession to 1) Obtain post petition secured financing from Bankruptcy Restructuring Solutions, LLC and 2) Approval of transfer of lien on Sweetzer property to Bel Air property pursuant to 11 U.S.C. section 364(b)

Docket 75

Tentative Ruling:

Please see tentative ruling for the status conference (calendar no. 3, 10/4/19 at 10:00 a.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 11

#2.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/10/19, 9/24/19

ALLIANCE PORTFOLIO, PRIVATE EQUITY FINANCE
VS
DEBTOR

Docket 40

Tentative Ruling:

Tentative Ruling for 10/4/19:

Please see tentative ruling for the status conference (calendar no. 3, 10/4/19 at 10:00 a.m.).

Tentative Ruling for 9/24/19:

Please see tentative ruling for the status conference (calendar no. 21, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 9/10/19:

Grant the motion of Alliance Portfolio, Private Equity Finance, Inc. ("Alliance") Motion for Relief From The Automatic Stay (dkt. 40, 41), on the terms set forth below, based on this Court's review of that motion, Debtor's opposition (dkt. 44), Alliance's reply (dkt. 50), and the other facts and circumstances, including this Court's review of Debtor's prior bankruptcy case and the order in this case (dkt.31) continuing the automatic stay. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

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CONT...

Ashley Susan Aarons

Chapter 11

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within 180 days after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the grounds for "*in rem*" relief unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks a finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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Los Angeles
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CONT... Ashley Susan Aarons

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

Movant(s):

Alliance Portfolio, Private Equity

Represented By
Robert P Goe

**United States Bankruptcy Court
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10:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/4/19:

Appearances required.

(1) Current issues

(a) Motion for authority to obtain post-petition financing (dkt. 75, 76, 77, 80, 81, 82, 83, 84) (the "Finance Motion"); Alliance Portfolio/Private Equity Finance, Inc.'s Opposition (dkt. 91)

There is no tentative ruling. It appears no reply deadline was set, so debtor's reply will be allowed orally at the hearing.

(b) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The outcome of this motion is subject to this Court's decision whether to grant or deny the Finance Motion.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Friday, October 4, 2019

Hearing Room 1545

10:00 AM

CONT... Ashley Susan Aarons

Chapter 11

Tentative Ruling for 9/24/19:

Appearances required. The Court has reviewed the Debtor's status report (dkt. 69).

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The parties should be prepared to advise this Court on whether they will agree to an adequate protection order and the proposed \$50,000 loan from Complete Business Solutions Group ("Complete") (dkt.69, p.2:21-25). The parties also should be prepared to address whether shortened time or other special procedures are requested regarding any proposed lending. See 11 U.S.C. 364; Rules 4001(c) & 9006(c)(2) (Fed. R. Bankr. P.).

(b) Contemplated contract with Majestic Ventures LLC dba VacationHomes365.com ("Consultant") re marketing (Airbnb etc.)

Debtor is contemplating a contract with Consultant for marketing services. Dkt.69, Ex.2. As that contract points out (*id.*, sec.7.2, p.44), Debtor is responsible for complying with legal obligations regarding short term rentals, and associated costs, including local taxes.

The parties should be prepared to address whether Consultant is a "professional" within the meaning of 11 U.S.C. 327; whether approval of the contract with Consultant is required under that section or section 363(b); and whether shortened time or other special procedures are requested regarding any proposed agreement with Consultant. See 11 U.S.C. 327, 363(b); Rules 2002(a)(2) & 9006(c)(2) (Fed. R. Bankr. P.).

(c) Termination of prior real estate agent

Debtor reports (dkt. 69, para.3) that the previously authorized real estate agent has agreed to cancel the listing. Is that in writing? Will Debtor need any order related to that cancellation/termination? What assurance is there that this prior agent will not seek some sort of compensation?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

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Hearing Room 1545

10:00 AM

CONT...

Ashley Susan Aarons

Chapter 11

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:
Appearances required.

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

Grant, as set forth in calendar no. 3 (9/10/19 at 1:00 p.m.).

(b) Employment Motion for The Turoci Firm (dkt. 23, 28)

Deny, as set forth in calendar no. 4 (9/10/19 at 1:00 p.m.). The parties should be prepared to address whether Debtor has arranged for alternate counsel.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... Ashley Susan Aarons

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by debtor herself.

(1) Current issues

(a) Airbnb

Debtor's budget motion (dkt. 37, Ex.A, p.2) reveals that, although the Sweetzer property is "listed to be sold," meanwhile "Debtor intends to rent [that property] as an Airbnb." The tentative ruling is that this is a transaction out of the ordinary course, which requires notice, an opportunity for a hearing, and approval by this Court. 11 U.S.C. 363(b). Has Debtor already acted on this intent, without such approval?

In addition, this Court is concerned about (i) whether Airbnb rental would be in compliance with any local permitting and zoning requirements and is otherwise permissible, (ii) whether that proposed use might expose the bankruptcy estate to liabilities, (iii) whether there is adequate insurance for that use of the property, and (iv) whether the proposed sale of the property is consistent with any agreement with Airbnb.

(b) Real estate agent.

The employment application (dkt. 26, p.4:1-4) states that Agent has agreed to disclose to Debtor [i.e., only to Debtor? how about disclosure to creditors, the US Trustee, and this Court?] any agency relationship Agent has with other parties ("Third Parties") that may be part of a real estate transaction for the sale of the Real Property [i.e., dual agency? that is prohibited by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)] as well as the amount of any compensation Agent receives from Agent's relationship with any Third Parties [i.e., splitting the commission with a cooperating agent from a different real estate agency? or something else?].

What does the quoted text mean? This Court's questions are set forth in the emphasized, bracketed text above.

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Friday, October 4, 2019

Hearing Room 1545

10:00 AM

CONT... Ashley Susan Aarons

Chapter 11

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Friday, October 4, 2019

Hearing Room 1545

10:00 AM

2:18-24302 GL Master Inc

Chapter 7

#4.00 Status Conference re motion for order pursuant to rule 2004 for the production of documents and the oral examination of the person most knowledgeable of former counsel for the debtor GL Master Inc

Docket 20

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the appropriate scope of any examination and production of documents requested in the moving papers (see dkt. 20).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-21246 John Park

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

KERN CITY, LLC
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including

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CONT...

John Park

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any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

John Park

Pro Se

Movant(s):

Kern City, LLC

Represented By
Steven M Mayer

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:16-25435 Albert E. Evalle and Aida E. Evalle

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 39

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 41).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Albert E. Evalle

Represented By
Michael J Hemming

Joint Debtor(s):

Aida E. Evalle

Represented By
Michael J Hemming

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

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CONT... Albert E. Evalle and Aida E. Evalle

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-17121 Sergio Antonio Franco, Sr.

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

AJAX MORTGAGE LOAN TRUST 2018-G
MORTGAGE-BACKED SECURITIES, SERIES
2018-G
vs
DEBTOR

Docket 37

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sergio Antonio Franco Sr.

Represented By
Gregory M Shanfeld

Movant(s):

Ajax Mortgage Loan Trust 2018-G,

Represented By
Joshua L Scheer
Reilly D Wilkinson

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CONT... Sergio Antonio Franco, Sr.

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-19012 Regina Le'June Martin

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

CMG MORTGAGE, INC.
vs
DEBTOR

Docket 34

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Regina Le'June Martin

Represented By
Kahlil J McAlpin

Movant(s):

CMG Mortgage, Inc.

Represented By
Robert P Zahradka
Kristin A Zilberstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-19661 Amy Elizabeth Graves

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

USAA FEDERAL SAVINGS BANK
vs
DEBTOR

Docket 44

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Amy Elizabeth Graves

Represented By
Stephen S Smyth

Movant(s):

USAA Federal Savings Bank

Represented By
Bethany Wojtanowicz
Cassandra J Richey

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-11932 Brad Leon Luff

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 44

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

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CONT...

Brad Leon Luff

Chapter 13

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Brad Leon Luff

Represented By
Kevin T Simon

Movant(s):

Deutsche Bank National Trust

Represented By
Daniel K Fujimoto
Caren J Castle

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CONT... Brad Leon Luff

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-12897 Jessie H Benavidez

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON et al
VS
DEBTOR

Docket 21

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Jessie H Benavidez

Chapter 13

Party Information

Debtor(s):

Jessie H Benavidez

Represented By
Julie J Villalobos

Movant(s):

The Bank of New York Mellon, et al

Represented By
Anna Landa
Diana Torres-Brito

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-14377 Raquel Espericueta

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 29

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 31).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Raquel Espericueta

Represented By
Axel H Richter

Movant(s):

Wells Fargo Bank, N.A., as trustee,

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-15612 James Saliba

Chapter 13

#9.00 ***[CASE DISMISSED on 9/23/19]***

Hrg re: Motion for relief from stay [RP]

BARRY COOPER SELF EMPLOYED PROFIT
SHARING
vs
DEBTOR

Docket 42

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

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CONT...

James Saliba

Chapter 13

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

James Saliba

Represented By
Matthew D. Resnik

Movant(s):

Barry Cooper Self Employed Profit

Represented By
Mark D Estle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:19-20652 Carolyn Marjorie Maggio

Chapter 13

#10.00 Hrg re: Motion for relief from stay [RP]

MARBELLA REAL ESTATE, INC.
vs
DEBTOR

Docket 11

Tentative Ruling:

Appearances required. The parties should be prepared to address the following issues.

(1) Standing

Movant should be prepared to address its standing to bring the motion. Movant is Marabella Real Estate, Inc. ("Marabella"), but the deed of trust attached to the motion papers is in favor of a trust (the "Carroll Trust") (dkt.11, Ex.1, at PDF p.14), and the Assignment attached to the motion papers is from the Carroll Trust to another trust (the "Westridge Trust") (dkt.11, Ex.2, at PDF p.20). There is no evidence of an assignment from the Westridge Trust to Marabella.

(2) No *in rem* relief

The tentative ruling is not to grant any "*in rem*" relief from the automatic stay (relief that would be effective in any future case that otherwise would affect the property). Movant has not shown adequate cause, for the reasons stated in Debtor's response (the prior case was 10 years ago; there is no evidence of any wrongdoing in that case or any other evidence that this case is part of a scheme to hinder, delay, or defraud creditors; nor is there any equivalent evidence of wrongdoing).

In addition, and in the alternative, Movant cannot be granted *in rem* relief because Movant has not served all of the persons who executed the documents through which the movant asserts its interest in the property (sometimes referred to in the mortgage context as the "original borrower") - namely, Julia J. Colosi, the joint tenant and co-signer of the deed of trust. That is required by the local rules. See LBR 4001-1(c)(1)(B). In addition, the

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CONT... Carolyn Marjorie Maggio

Chapter 13

tentative ruling is that it is required by due process, because notice should be provided to the joint tenant, who is one of the persons whose interests may be most directly affected. See generally *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally).

(3) Possible APO

The parties are directed to address whether the alleged postpetition payment of \$31,961.95 to the holder of the senior lien (Motion, dkt.11, p.6, para. 3.a.) on 9/11/19 was made with knowledge of this bankruptcy case (filed 9/9/19). If so, the tentative ruling is to disallow any attorney fees that Movant seeks to recover for this motion, because there is no showing that such payment and this motion were necessary, as opposed to letting Debtor pay any arrears to the senior lienholder over time pursuant to the Bankruptcy Code.

On the other hand, if Movant did not have knowledge that this bankruptcy case had been commenced, the tentative ruling is to require a "stay current" adequate protection order ("APO") with the usual terms (14 days' notice to cure in the event of default, and no more than three opportunities for such a cure).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carolyn Marjorie Maggio

Represented By
Chris A Mullen

Movant(s):

Marbella Real Estate, Inc.

Represented By
Lorraine Anderson

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CONT... Carolyn Marjorie Maggio

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:17-22109 Harry Balian and Agavni Gina Hogtanian

Chapter 13

#11.00 Hrg re: Motion for relief from stay [PP]

TOYOTA LEASE TRUST
vs
DEBTOR

Docket 55

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... **Harry Balian and Agavni Gina Hogtanian** **Chapter 13**
by consent, then you may waive your right to be heard on matters that are
appropriate for disposition at this hearing.

Party Information

Debtor(s):

Harry Balian

Represented By
Matthew D. Resnik

Joint Debtor(s):

Agavni Gina Hogtanian

Represented By
Matthew D. Resnik

Movant(s):

Toyota Lease Trust

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-21558 Carolina Rivas

Chapter 13

#12.00 Hrg re: Motion for relief from stay [PP]

HYUNDAI LEASE TITLING TRUST
vs
DEBTOR

Docket 27

Tentative Ruling:

Grant as provided below, because Debtor's limited opposition (dkt. 29, 30) opposes the motion "only to the extent that it seeks a specific finding that the Debtor was involved in a scheme to hinder, delay or defraud creditors" and the motion does not request such relief. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Carolina Rivas

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carolina Rivas

Represented By
Christopher D Cantore

Movant(s):

Hyundai Lease Titling Trust

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-10323 Jesse Vaca and Marisela Vaca

Chapter 7

#13.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 38

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

The subject Camry was abandoned fourteen days after the Chapter 7 Trustee served a notice of intent to abandon (dkt.32) without any opposition having been filed. See 11 U.S.C. 554(a); Rule 6007-1(d)(1) (LBR). The automatic stay of any act against property is terminated as of abandonment. See 11 U.S.C. 362(c)(1). In addition, Debtor received a discharge on 4/22/19 (dkt. 20), which terminates the automatic stay in all other respects. See 11 U.S.C. 362(c)(2)(C).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)

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CONT... Jesse Vaca and Marisela Vaca
(3).

Chapter 7

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jesse Vaca

Represented By
Todd B Becker

Joint Debtor(s):

Marisela Vaca

Represented By
Todd B Becker

Movant(s):

Toyota Motor Credit Corporation

Represented By
Kirsten Martinez

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-12069 Gladys Smith

Chapter 13

#14.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 51

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Gladys Smith

Chapter 13

Party Information

Debtor(s):

Gladys Smith

Represented By
Evelyn R Gillespie

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-13410 James Sandoval

Chapter 13

#15.00 Hrg re: Motion for relief from stay [PP]

GATEWAY ONE LENDING & FINANCE
vs
DEBTOR

Docket 27

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... James Sandoval

Chapter 13

Party Information

Debtor(s):

James Sandoval

Represented By
Ruben Fuentes

Movant(s):

Gateway One Lending & Finance

Represented By
Karel G Rocha

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-18768 Clara Masihi Der Boghossian

Chapter 13

#16.00 Hrg re: Motion for relief from stay [PP]

STATE FARM BANK
vs
DEBTOR

Docket 19

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Clara Masihi Der Boghossian

Chapter 13

Party Information

Debtor(s):

Clara Masihi Der Boghossian

Represented By
Barry E Borowitz

Movant(s):

State Farm Bank

Represented By
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-19328 Michelle Lee Peterson-Earhart

Chapter 7

#17.00 Hrg re: Motion for relief from stay [PP]

CALIFORNIA PHYSICIANS' SERVICE
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Michelle Lee Peterson-Earhart

Chapter 7

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michelle Lee Peterson-Earhart

Represented By
Daniel King

Movant(s):

California Physicians' Service dba

Represented By
Andrew Still

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-17908 Enedina Vasquez Lopez

Chapter 7

#18.00 Hrg re: Motion for relief from stay [UD]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 20

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within 180 days after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT...

Enedina Vasquez Lopez

Chapter 7

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Enedina Vasquez Lopez

Pro Se

Movant(s):

Wilmington Savings Fund Society,

Represented By
Nichole Glowin

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-20405 Mark Sanders

Chapter 13

#19.00 Hrg re: Motion for relief from stay [UD]

DANIEL S. PERLSTEIN
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Docket entries for Debtor's prior filing (2:19-bk-18003-NB).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT...

Mark Sanders

Chapter 13

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Mark Sanders

Chapter 13

Debtor(s):

Mark Sanders

Pro Se

Movant(s):

Daniel S. Perlstein

Represented By
Lane M Nussbaum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-20946 Claudia C Flores

Chapter 13

#20.00 Hrg re: Motion for relief from stay [UD]

DEMENCIO RECINOS
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Claudia C Flores

Chapter 13

Party Information

Debtor(s):

Claudia C Flores

Pro Se

Movant(s):

Demencio Recinos

Represented By
Luke P Daniels

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:18-20426 Matthew Michael Totaro

Chapter 13

#21.00 Hrg re: Motion for relief from stay [NA]

TD AUTO FINANCE LLC
vs
DEBTOR

Docket 101

***** VACATED *** REASON: Stipulation (dkt.109) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Matthew Michael Totaro

Represented By
Michael R Totaro

Movant(s):

TD Auto Finance LLC

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-16876 Kenneth Kain

Chapter 13

#22.00 **[CASE DISMISSED on 9/27/19]**

Hrg re: Motion in Individual Case for Order Confirming Termination of Stay under 11 U.S.C. 362(j) or That No Stay is in Effect under 11 U.S.C. 362(c)(4)(A)(ii)

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 34)

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:18-bk-13189-VZ) was dismissed (on 10/22/18) within one year before this case was filed (on 6/12/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

Additionally, the movant obtained a prepetition eviction judgment and

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... **Kenneth Kain**

Chapter 13

writ of possession, which is an alternative reason why Debtor has no cognizable interest in the subject property and therefore the automatic stay does not apply. See *In re Perl*, 811 F.3d 1120, 1127-28 (9th Cir. 2016) ("We conclude that under California law, entry of judgment and a writ of possession following unlawful detainer proceedings extinguishes all other legal and equitable possessory interests in the real property at issue.").

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kenneth Kain

Pro Se

Movant(s):

The Bank of New York Mellon fka

Represented By
Randall D Naiman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-20944 Maynor Martinez

Chapter 13

#23.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 8

***** VACATED *** REASON: Case Dismissed 10/4/19 (dkt. 15)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maynor Martinez	Pro Se
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Movant(s):

Maynor Martinez	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-20974 Benito Javier Lopez

Chapter 13

#24.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 8

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Benito Javier Lopez Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Benito Javier Lopez

Represented By
Jaime A Cuevas Jr.

Movant(s):

Benito Javier Lopez

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:15-15721 Juan C. Garcia and Elia E. Garcia

Chapter 7

#25.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/24/19

THE BANK OF NEW YORK MELLON FKA
THE BANK OF NEW YORK
vs
DEBTOR

Docket 174

Tentative Ruling:

Tentative Ruling for 10/15/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re*

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... **Juan C. Garcia and Elia E. Garcia**

Chapter 7

Choong (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT...

Juan C. Garcia and Elia E. Garcia

Chapter 7

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Grant in part and continue in part to 10/15/19 at 10:00 a.m. as set forth below.
Appearances are not required on 9/24/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

Relief notwithstanding *future* bankruptcy cases.

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... **Juan C. Garcia and Elia E. Garcia**

Chapter 7

(sometimes referred to in the mortgage context as the "original borrower").
Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Cesar Amador.

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant (i) serving, on *the day after the current hearing date*, the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service no later than the next day. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Juan C. Garcia and Elia E. Garcia

Chapter 7

Debtor(s):

Juan C. Garcia

Represented By
Charles J Brash

Joint Debtor(s):

Elia E. Garcia

Represented By
Charles J Brash

Movant(s):

THE BANK OF NEW YORK

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:18-25030 Mark Mercado

Chapter 13

#26.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/17/19

MEB LOAN TRUST
vs
DEBTOR

Docket 64

Tentative Ruling:

Tentative Ruling for 10/15/19 (same as for 9/17/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 68), and (c) whether or not Debtor's loan may be modified.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Mark Mercado

Represented By
Teresa Straley

Movant(s):

MEB Loan Trust

Represented By
Daniel K Fujimoto
Merdaud Jafarnia

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Mark Mercado

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-10241 Maria F Gayman

Chapter 13

#27.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/20/19

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 10/15/19:

At the hearing on 8/20/19 this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order. Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the Debtor's late filed opposition (dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Maria F Gayman Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maria F Gayman

Represented By
Michael E Clark

Movant(s):

Wells Fargo Bank, N.A. successor

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-12322 Tammy Javonillo-Zimmerman

Chapter 13

#28.00 Cont hrg re: Motion for relief from stay [RP]
fr. 7/30/19, 9/24/19

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 26

Tentative Ruling:

Tentative Ruling for 10/15/19:

At the hearing on 7/30/19 this Court was persuaded to continue this hearing so that Debtor could attempt to sell the subject property. The parties should be prepared to address whether the property was sold; whether a purchaser has been found and additional time is needed to close the sale (*e.g.*, 30 days); whether the motion should be granted; or whether some other disposition is appropriate. See dkt. 35, 41, 50. Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 30).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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Central District of California
Los Angeles
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Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Tammy Javonillo-Zimmerman

Chapter 13

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tammy Javonillo-Zimmerman

Represented By
Thomas B Ure

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nancy L Lee
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:18-19093 Rodney Albert Gabriel, Jr

Chapter 13

#29.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/11/19, 7/2/19; 08/06/19, 9/17/19

NATIONAL MORTGAGE, LLC
vs
DEBTOR

Docket 62

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances required. At the previous hearing, this Court was informed that the Chapter 13 Trustee had not yet received certain information requested from Movant. There is no tentative ruling, but the parties should be prepared to address (a) whether the Chapter 13 Trustee has received the information she requested, (b) whether the alleged arrears have been brought current and/or (c) whether some other disposition is appropriate.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

Appearances required. At the previous hearing, Movant informed this Court that it had provided the Chapter 13 Trustee with a payoff statement and that the Chapter 13 Trustee required further accounting. There is no tentative ruling, but the parties should be prepared to address (a) the status of that further accounting, (b) whether the alleged arrears have been brought current and/or (c) whether they will agree to the terms of an adequate protection order.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... **Rodney Albert Gabriel, Jr**

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

Appearances required. At the previous hearing, the parties noted that another of Debtor's properties had been sold and that Movant's debt may be paid in full out of the proceeds. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/2/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Rodney Albert Gabriel, Jr Chapter 13

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodney Albert Gabriel Jr

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-19694 Ramon Diaz

Chapter 13

#30.00 ***[CASE DISMISSED ON 9/10/19]***

Cont'd hrg re: Motion for relief from stay [UD]
fr. 10/1/19

5800 HAROLD LLC
vs
DEBTOR

Docket 11

Tentative Ruling:

Tentative Ruling for 10/15/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Amended Notice of Motion reflecting service on Dolorez White, Chelsey Rodriguez, and Tristin Kidd (dkt. 15).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

CONT...

Ramon Diaz

Chapter 13

present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... **Ramon Diaz**

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/1/19:

Grant in part and continue in part to 10/15/19 at 10:00 a.m. as set forth below.
Appearances are not required on 10/1/19.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay.
See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property. Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Dolores White and Chelsey Rodriguez (who are named tenants, along with Tristin Kidd, who is the only named tenant who was served). See Lease Contract (dkt. 11, Ex.A), section 1 (at PDF p.15); POS (dkt.11 at PDF pp.75-76).

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant (i) serving, on the day after the current hearing date, the motion papers and notice of the

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT...

Ramon Diaz

Chapter 13

continued hearing date, and (ii) filing that notice and a proof of service no later than the next day. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ramon Diaz

Pro Se

Movant(s):

5800 Harold LLC

Represented By
Agop G Arakelian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Ramon Diaz

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:15-17643 Sib Edward Ventress and Jennifer Heidi Ventress

Chapter 13

#31.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 64

Tentative Ruling:

Tentative Ruling for 10/15/19:

Take this motion for relief from the automatic stay off calendar, in view of this Court's order (dkt. 71) granting the debtor's motion to commence loan modification program, without prejudice to the movant self-calendaring this motion again if the loan modification program is terminated without a consensual loan modification. Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/1/19:

Continue to 10/15/19 at 10:00 a.m. because Debtors have filed their Motion to Commence LMM Program (dkt. 66). Appearances are not required on 10/1/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

CONT... Sib Edward Ventress and Jennifer Heidi Ventress Chapter 13
by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sib Edward Ventress

Represented By
Charles J Brash

Joint Debtor(s):

Jennifer Heidi Ventress

Represented By
Charles J Brash

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Keith Labell
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

10:00 AM

2:19-21396 Jay Balingcos

Chapter 13

#32.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 13

Tentative Ruling:

Grant, subject to (x) disallowing any attorney fees fo Debtor's counsel for appearing at the hearing, (y) any opposition at the hearing, and (z) the following conditions. Appearances required.

(A) No fees for appearing at hearing

Counsel for Debtor is directed not to charge any fees for appearing at the hearing on this matter, unless a party in interest appears at the hearing in opposition to the motion. Reasons: Per the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) this matter could have been set on shortened time with any opposition due 5 days prior to the hearing, and instead counsel stated in the motion (incorrectly) that any opposition is due at the hearing. See dkt.13, p.2, para. 3.b.(1).

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

(B) Limited relief

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements

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10:00 AM

CONT...

Jay Balingcos

Chapter 13

are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jay Balingcos

Represented By
Julie J Villalobos

Movant(s):

Jay Balingcos

Represented By
Julie J Villalobos

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:15-19844 Natisha Catrice Waters

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Applications for fees and expenses
[Richard K. Diamond, Chapter 7 trustee]

Docket 117

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$13,875 in fees (but limit payment to \$3,365.41 per Trustee's request, see dkt. 117, PDF p. 10), and \$227.57 in expenses, for a total payment of \$3,592.98. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Natisha Catrice Waters

Represented By
Michael F Chekian

Trustee(s):

Richard K Diamond (TR)

Represented By
Aaron E de Leest
Zev Shechtman
Sonia Singh
Mark Weidmann

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11:00 AM

2:15-19844 Natisha Catrice Waters

Chapter 7

#2.00 Hrg re: First And Final Application For Award Of Compensation And Reimbursement Of Expenses [Filed by Danning, Gill, Diamond & Kollitz, LLP As General Counsel For Chapter 7 Trustee]

Docket 116

Tentative Ruling:

Allow Danning Gill Diamond & Kollitz LLP \$77,183.50 in fees (but limit payment to \$18,720.99 per Trustee's request, see dkt. 117, PDF p. 10), and \$2,577.38 in expenses, for a total of \$21,298.37. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Natisha Catrice Waters

Represented By
Michael F Chekian

Trustee(s):

Richard K Diamond (TR)

Represented By
Aaron E de Leest
Zev Shechtman
Sonia Singh
Mark Weidmann

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Chapter 7

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11:00 AM

2:18-21849 Ronald Serrano Yuson

Chapter 7

#3.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Timothy Yoo, Chapter 7 Trustee]

Docket 37

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$5,150.00 in fees, and \$39.75 in expenses, for a total of \$5,189.75. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ronald Serrano Yuson

Represented By
Marvin Jarrett Mann

Trustee(s):

Timothy Yoo (TR)

Represented By
Leonard Pena
Jeffrey L Sumpter

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11:00 AM

2:18-21849 Ronald Serrano Yuson

Chapter 7

#4.00 Hrg re: Application for payment of final fees and/or expenses
[Filed by Leonard Pena by Pena & Soma, APC attorney for chapter 7 trustee]

Docket 34

Tentative Ruling:

Allow Pena & Soma, APC \$13,627.50 in fees and \$68.64 in expenses, for a total of \$13,696.14. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ronald Serrano Yuson

Represented By
Marvin Jarrett Mann

Trustee(s):

Timothy Yoo (TR)

Represented By
Leonard Pena
Jeffrey L Sumpter

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Tuesday, October 15, 2019

Hearing Room 1545

11:00 AM

2:13-26483 Saeed Cohen

Chapter 11

Adv#: 2:16-01046 Cohen v. Cohen

#5.00 Hrg re: Motion to reopen adversary proceeding
to hear motion on release monies or rents payable
to Fariba Cohen

Docket 170

***** VACATED *** REASON: Order continuing hearing to 11/5/19 at 2pm
entered 10/7/19 -Dkt. #178**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young

Defendant(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Beth Ann R Young

Plaintiff(s):

Fariba Cohen

Represented By
Alan W Forsley
Susan K Sefflin
Kevin J Leichter
Michael H Weiss

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11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#6.00 Hrg re: Motion for Attorney's Fees

Docket 63

***** VACATED *** REASON: This matter is to be heard at a different time. See Cal. 22, 10/15/19 at 1:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase
Cliff Schneider

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase
Cliff Schneider

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

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CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Movant(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

**United States Bankruptcy Court
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Tuesday, October 15, 2019

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11:00 AM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01197 Koi Design LLC v. Mastroianni et al

#7.00 Cont'd status conference re: Complaint (1) Intentional Breach of Fiduciary Duty; (2) Fraudulent Concealment; (3) Breach of Fiduciary Duty; (4) Legal Malpractice; (5) Negligent Supervision; (6) Constructive Fraud; (7) Avoidance and Recovery of Fraudulent Transfers; and (8) Turnover of Property of the Estate fr. 9/3/19, 9/10/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #26 at 1:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

A. Douglas Mastroianni

Pro Se

Marron Lawyers, APC

Represented By
John W Kim

The Bloom Firm, APC

Represented By
Vernon L Ellicott
Heather L Rosing
John T Rosenthal

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:19-13984 Rogelio Morales Hernandez

Chapter 13

Adv#: 2:19-01207 Hernandez v. Avail Holding LLC et al

#8.00 Hrg re: Motion to dismiss plaintiff's complaint

Docket 6

Tentative Ruling:

Please see the tentative ruling for the adversary status conference (calendar no. 9, 10/15/19 at 11:00 a.m.).

Party Information

Debtor(s):

Rogelio Morales Hernandez

Represented By
Mariano A Alvarez

Defendant(s):

Avail Holding LLC

Represented By
Abe G Salen

Does 1-10

Pro Se

Movant(s):

Avail Holding LLC

Represented By
Abe G Salen

Plaintiff(s):

Rogelio Morales Hernandez

Represented By
Mariano A Alvarez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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11:00 AM

2:19-13984 Rogelio Morales Hernandez

Chapter 13

Adv#: 2:19-01207 Hernandez v. Avail Holding LLC et al

#9.00 Cont'd status conference re: Complaint for Validity, priority or extent of lien or other interest in property; injunctive relief; Declaratory judgment fr. 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances required. This Court has reviewed the status reports filed by Defendant Avail Holding LLC ("Avail," adv.dkt.9) and by Plaintiff/Debtor (adv. dkt. 8, 13) and other relevant documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket number(s) 1, 8, 9, 13).

(2) Current issues

(a) Avail's motion to dismiss (adv.dkt.6) ("MTD"), Plaintiff/Debtor's opposition (adv.dkt.11), Avail's reply (adv.dkt.12)

Avail's papers establish a sufficient showing that the complaint fails to state a claim upon which relief can be granted, and the opposition does not adequately rebut that showing. But the tentative ruling is that leave to amend should be granted because the gravamen of the complaint appears to be that, in reliance on Avail's (and its predecessor's) complete lack of communication for over ten years, Plaintiff/Debtor did not take steps to avoid the encumbrance now held by Avail, as he would have done had he known that Avail was not writing off its debt for a payment of \$8,000 (see adv. dkt. 1, ¶ 49, p. 12). It is not clear whether those allegations, which appear in the fourth claim for declaratory relief, would support a claim for general negligence or perhaps some other claim, but it appears that leave to amend should be granted to test whether that is so.

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CONT... Rogelio Morales Hernandez

Chapter 13

(3) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 10/29/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(4) Deadlines: This adversary proceeding has been pending since 7/10/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 12/3/19

Continued status conference: 12/17/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Rogelio Morales Hernandez

Chapter 13

Tentative Ruling for 9/24/19:

Continue this status conference to be concurrent with the hearing on the pending motion to dismiss, which is presently scheduled for 10/15/19 at 11:00 a.m. The Court has reviewed the parties' status reports (adv. dkt. 8, 9). The parties are reminded to file their joint status report timely. Appearances are not required on 9/24/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rogelio Morales Hernandez

Represented By
Mariano A Alvarez

Defendant(s):

Avail Holding LLC

Represented By
Abe G Salen

Does 1-10

Pro Se

Plaintiff(s):

Rogelio Morales Hernandez

Represented By
Mariano A Alvarez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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1:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#1.00 Hrg re: U.S. Trustee's motion to dismiss or convert case

Docket 65

Tentative Ruling:

Please see the tentative ruling in the status conference (cal. no. 3, 10/15/19 at 1:00 p.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

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1:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#2.00 Hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115

Docket 37

***** VACATED *** REASON: Voluntary dismissed, off calendar [dkt. 95]**

Tentative Ruling:

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

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2:19-18316 Ashley Susan Aarons

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) UST's motion to dismiss (dkt. 65), debtor's opposition (dkt. 86), no reply is on file

There is no tentative ruling. The parties should be prepared to address whether debtor has cured all outstanding compliance issues, and whether Debtor's second corrected opposition continues to have error(s) in calculating projected cash flow. That opposition lists net income before personal expenses for "Oct-19" and "Nov-19" as -5,850.00, but then after personal expenses of \$1,751.00 for each month it lists "excess income" of \$34,900.00. Dkt.94, Ex.1, at PDF pp.8-9. If the spreadsheet is wrong about those numbers, can creditors and this Court rely on the rest of Debtor's projections?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/10/19 at 1:00 p.m.; no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Ashley Susan Aarons

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/4/19:

Appearances required.

(1) Current issues

(a) Motion for authority to obtain post-petition financing (dkt. 75, 76, 77, 80, 81, 82, 83, 84) (the "Finance Motion"); Alliance Portfolio/Private Equity Finance, Inc.'s Opposition (dkt. 91)

There is no tentative ruling. It appears no reply deadline was set, so debtor's reply will be allowed orally at the hearing.

(b) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The outcome of this motion is subject to this Court's decision whether to grant or deny the Finance Motion.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required. The Court has reviewed the Debtor's status report (dkt. 69).

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CONT... Ashley Susan Aarons

Chapter 11

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The parties should be prepared to advise this Court on whether they will agree to an adequate protection order and the proposed \$50,000 loan from Complete Business Solutions Group ("Complete") (dkt.69, p.2:21-25). The parties also should be prepared to address whether shortened time or other special procedures are requested regarding any proposed lending. See 11 U.S.C. 364; Rules 4001(c) & 9006(c)(2) (Fed. R. Bankr. P.).

(b) Contemplated contract with Majestic Ventures LLC dba VacationHomes365.com ("Consultant") re marketing (Airbnb etc.)

Debtor is contemplating a contract with Consultant for marketing services. Dkt.69, Ex.2. As that contract points out (*id.*, sec.7.2, p.44), Debtor is responsible for complying with legal obligations regarding short term rentals, and associated costs, including local taxes.

The parties should be prepared to address whether Consultant is a "professional" within the meaning of 11 U.S.C. 327; whether approval of the contract with Consultant is required under that section or section 363(b); and whether shortened time or other special procedures are requested regarding any proposed agreement with Consultant. See 11 U.S.C. 327, 363(b); Rules 2002(a)(2) & 9006(c)(2) (Fed. R. Bankr. P.).

(c) Termination of prior real estate agent

Debtor reports (dkt. 69, para.3) that the previously authorized real estate agent has agreed to cancel the listing. Is that in writing? Will Debtor need any order related to that cancellation/termination? What assurance is there that this prior agent will not seek some sort of compensation?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status

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conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:
Appearances required.

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

Grant, as set forth in calendar no. 3 (9/10/19 at 1:00 p.m.).

(b) Employment Motion for The Turoci Firm (dkt. 23, 28)

Deny, as set forth in calendar no. 4 (9/10/19 at 1:00 p.m.). The parties should be prepared to address whether Debtor has arranged for alternate counsel.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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CONT... Ashley Susan Aarons

Chapter 11

appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by debtor herself.

(1) Current issues

(a) Airbnb

Debtor's budget motion (dkt. 37, Ex.A, p.2) reveals that, although the Sweetzer property is "listed to be sold," meanwhile "Debtor intends to rent [that property] as an Airbnb." The tentative ruling is that this is a transaction out of the ordinary course, which requires notice, an opportunity for a hearing, and approval by this Court. 11 U.S.C. 363(b). Has Debtor already acted on this intent, without such approval?

In addition, this Court is concerned about (i) whether Airbnb rental would be in compliance with any local permitting and zoning requirements and is otherwise permissible, (ii) whether that proposed use might expose the bankruptcy estate to liabilities, (iii) whether there is adequate insurance for that use of the property, and (iv) whether the proposed sale of the property is consistent with any agreement with Airbnb.

(b) Real estate agent.

The employment application (dkt. 26, p.4:1-4) states that Agent has agreed to disclose to Debtor [i.e., only to Debtor? how about disclosure to creditors, the US Trustee, and this Court?] any agency relationship Agent has with other parties ("Third Parties") that may be part of a real estate transaction for the sale of the Real Property [i.e., dual agency? that is prohibited by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)] as well as the amount of any compensation Agent receives from Agent's relationship with any Third Parties [i.e., splitting the commission with a cooperating agent from a different real estate agency? or something else?].

What does the quoted text mean? This Court's questions are set forth in the emphasized, bracketed text above.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

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CONT...

Ashley Susan Aarons

Chapter 11

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

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2:18-17941 Patricia Ann Theus

Chapter 11

#4.00 Hrg re: First and Final Fee Application For Compensation
For Legal Services Rendered And Reimbursement Of Expenses
incurred by attorney for Chapter 11 debtor in possession

Docket 123

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5,
10/15/19 at 1:00 p.m.)

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/14/18, 9/18/18, 10/16/18, 11/27/18, 01/09/18,
2/5/19; 04/02/19, 05/21/19, 7/2/19, 8/6/19

Docket 7

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances are not required.

(1) Current issues

(a) Anyama Law Firm's First and Final Fee Application (dkt. 123)

Allow Anyama Law Firm \$17,878.00 in fees and \$690.92 in expenses,
for a total of \$18,568.92

Proposed order: Movant is directed to lodge a proposed order via LOU
within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 7/11/18.

(a) Bar date: 10/29/18 (dkt. 26, timely served dkt. 28)

(b) Plan/Disclosure Statement (dkt. 104, 105)*: Confirmed/approved
(dkt. 116, 117)

(c) Post-confirmation status conference: 12/10/19 at 1:00 p.m. Status
report due 11/27/19 (if this case has not been temporarily or permanently
closed meanwhile).

*Warning: special procedures apply (see order setting initial status
conference).

If appearances are not required at the start of this tentative ruling but you
wish to dispute the tentative ruling, or for further explanation of "appearances
required/are not required," please see Judge Bason's Procedures (posted at
www.cacb.uscourts.gov) then search for "tentative rulings." If appearances
are required, and you fail to appear without adequately resolving this matter
by consent, then you may waive your right to be heard on matters that are
appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

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CONT... Patricia Ann Theus

Chapter 11

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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2:16-12679 Michael R Totaro

Chapter 11

#6.00 Hrg re: U.S. Trustee's Motion to dismiss or convert case

Docket 329

Tentative Ruling:

Please see the tentative ruling for the case status conference (calendar no. 8, 10/15/19 at 1:00 p.m.)

Party Information

Debtor(s):

Michael R Totaro

Represented By
Martina A Slocomb
Candice Candice Bryner

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2:16-12679 Michael R Totaro

Chapter 11

#7.00 Status conference on debtor's motion for order to show cause why Herbert V. Larson Jr., Esq. and his counsel, Kelvin J. Lo, and Lo & Lo, LLP should not be held in contempt

Docket 334

Tentative Ruling:

Please see the tentative ruling for the case status conference (calendar no. 8, 10/15/19 at 1:00 p.m.)

Party Information

Debtor(s):

Michael R Totaro

Represented By
Martina A Slocomb
Candice Candice Bryner

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2:16-12679 Michael R Totaro

Chapter 11

#8.00 Cont'd Status Conference re: Post Confirmation
fr. 4/12/16, 04/26/16, 05/17/16, 8/2/16, 9/6/16, 11/8/16,
11/29/16, 1/17/17, 1/31/17, 03/21/17, 4/11/17, 06/13/17,
9/19/17, 11/14/17, 02/13/18, 7/10/18, 9/18/18, 12/18/18,
6/11/19

Docket 271

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) United States Trustee ("UST") Motion to Dismiss or Convert ("MTD," dkt. 329), Debtor's opposition (dkt. 337) and UST's reply (dkt. 338)

The tentative ruling is to grant the alternative relief requested by the UST: in the event of future non-compliance, the UST is authorized to file a declaration of non-compliance and lodge a proposed order, which this Court may grant without further notice or hearing.

(b) Status conference re Debtor's motion re alleged violations of automatic stay (dkt. 328)

There is no tentative ruling, but the parties should be prepared to address the issues raised by this Court's order setting a status conference on D's motion (dkt. 334).

(2) Deadlines/dates. This case was filed on 2/17/16, and Debtor's Plan was confirmed on 6/20/17 (dkt.253).

(a) Continued status conference: 12/10/19 at 1:00 p.m. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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Michael R Totaro

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Michael R Totaro

Represented By
Martina A Slocomb

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2:19-12720 Andrea Pompelli Steyn

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 04/30/19, 06/04/19, 7/30/19

Docket 1

***** VACATED *** REASON: Continued to October 29, 2019 at 1:00 p.m.
[dkt. 104]**

Tentative Ruling:

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#10.00 Hrg re: Second Application of Margulies Faith LLP, Bankruptcy Counsel for Debtor and Debtor-in-Possession, for Interim Allowance and Payment of Compensation and Reimbursement of Expenses for Period April 1, 2019 through August 31, 2019

Docket 391

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 14, 10/15/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#11.00 Hrg re: Application for payment of interim fees and/or expenses Under 11 U.S.C. § 331 or § 330 for Steven M. Steese, attorney for the debtor in possession

Docket 390

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 14, 10/15/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#12.00 Hrg re: Application for Payment of Interim Fees and/or Expenses Under 11 U.S.C. § 331 or § 330 for Grobstein Teeple LLP, Accountant

Docket 389

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 14, 10/15/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#13.00 Hrg re: Application for Payment of Interim Fees and/or Expenses
Under 11 U.S.C. § 331 or § 330 for Matthew J Borrer, Special Counsel

Docket 388

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 14,
10/15/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Monserat Morales

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:
Appearances required.

(1) Current issues - fee applications

The tentative ruling is (a) to allow the requested fees and expenses, and (b) to authorize and direct Debtor to make immediate payment, on a *pro rata* basis, of a portion of those fees, all subject to the following limitations.

Debtor's reply asserts that all but \$209,867.58 can be paid using a combination of: a retainer (applied to one of the fee applications), unencumbered funds from the sale of personal property, and payment of the authorized monthly amounts for professional fees in the approved cash collateral budget. See Reply (dkt.408), p.3:1-7. But as to that \$209,867.58 balance, this Court requires some assistance interpreting (i) Ex.1 and 2 to the declaration in support of the fee applications (the "Accountant Calculations," L.McNeal Decl. (dkt.401), Ex.1&2) and (ii) Mr. Borrer's declaration (the "Borrer Decl," dkt.388).

(i) Accountant Calculations

Is Debtor asserting that, notwithstanding the limited dollar amount in the approved cash collateral budget for payment of professionals' fees, a larger dollar amount should be distributed now? If so, is Debtor asserting that Cathay Bank is adequately protected because it has received interim payments, and/or because of some combination of uncollected accounts receivable, proceeds from the sale of assets, and remaining real estate provide adequate protection? Do the Accountant Calculations show that?

(ii) Borrer Decl

Mr. Borrer declares that the funds held in the "401k" account are "not part of the bankruptcy estate pursuant to BCS 522(b)(3)(C)." Dkt.388,

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CONT... **Schaefer Ambulance Service, Inc**

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p.1:24-25. Assuming he is referring to section 522(b)(3)(C) of the Bankruptcy Code, the problem is that the exemptions provided by that section apply only to an "individual" debtor. 11 U.S.C. 522(b)(1). Mr. Borrer may have intended to assert that the funds in the employee retirement account are not part of the estate pursuant to 11 U.S.C. 541(a)(7). Is that what was intended?

Mr. Borrer also declares that "it is permissible to pay reasonable administrative expenses from the assets of the 401k [sic] plan and allocate them using a nondiscriminatory method" (dkt.388, p.1:26-28) and he requests that his fees of \$58,960.00 "be paid with assets from the 401(k) Plan." *Id.*, p.1:9-10. This Court has several concerns with this request.

First, Mr. Borrer does not provide a copy of the retirement plan with the relevant language. Does the plan, or applicable nonbankruptcy law, require notice to the retirement plan's participants, and an opportunity for them to object?

Second, Mr. Borrer's fee application requests "\$16,400 in fees for services to be performed in the near future." Dkt. 388, p.2:5-6. Mr. Borrer explains that he routinely bills for such future services "because fairness requires that all expense amounts be removed from the plan asset pool before distributions to participants are made." Dkt. 388, p.2:17-20. If the \$16,400 estimate turns out to be too high, how will that be determined, and what happens? Will Mr. Borrer be refunding any overpayments to the employees?

Third, Mr. Borrer and Debtor do not address whether, if the retirement plan assets are not part of this bankruptcy estate, this Bankruptcy Court has the jurisdiction and authority to approve the fees, and any "nondiscriminatory method" of paying those fees. Is this Court's authority limited to approving the payment as a transaction out of the ordinary course (11 U.S.C. 363(b)), without otherwise approving or disapproving the proposed payment (*i.e.*, without addressing any applicable requirements under nonbankruptcy law)?

Subject to the foregoing, the tentative ruling is to allow the following fees, and authorize immediate payment of all but \$209,867.58 on a *pro rata* basis, with the remainder to be paid in arrears pursuant to approved cash collateral budgets:

* Margulies Faith LLP (dkt. 391). Allow \$427,130.00 in fees and \$6,283.44 expenses, for a total of \$433,413.44.

* Steven M. Steese (dkt. 390). Allow \$5,075.50 in fees and \$37.58 in expenses, for a total of 5,113.08.

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* Grobstein Teeple (dkt. 389). Allow \$16,467.25 in fees.

* Matthew J. Borrer (dkt. 388). Authorize Debtor to engage in a transaction out of the ordinary course (11 U.S.C. 363(b)) by arranging for payment by the employee retirement plan to Mr. Borrer of up to \$58,960.00, subject to any applicable limitations under nonbankruptcy law (see 28 U.S.C. 959(b)).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/5/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-18998 NAMR1726 LLC

Chapter 11

#15.00 Cont'd hrg re: U.S. Trustee's motion to dismiss or convert case
fr. 9/24/19

Docket 37

Tentative Ruling:

Tentative Ruling for 10/15/19:

Please see the tentative ruling in status conference (cal. no.16, 10/15/19 at 1:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 8, 9/24/19 at 1:00 p.m.).

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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2:19-18998 NAMR1726 LLC

Chapter 11

#16.00 Cont'd status conference re: Chapter 11 case
fr. 9/10/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances required.

(1) Current issues

(a) Inaccurate bankruptcy schedules

Why has Debtor not amended its bankruptcy schedules to reflect all of its creditors (at the 9/24/19 status conference it was reported that Debtor failed to list creditors with liens against three vacant parcels of real property)?

(b) Lack of any progress reflected on docket

As this Court previously has ruled, in connection with creditor Maxim's motion for relief from the automatic stay, "the longer this case is pending the greater will be the burden on Debtor to provide specific information and evidence as to precisely how [each] property [that Debtor claims to own] remains necessary to an effective reorganization." Dkt.36, Ex.1, at PDF p.4. Why does the docket not reflect any progress, such as a motion to approve employment of a real estate broker, or a motion to approve refinancing, or a motion to abandon one or more properties?

(c) Missing status report

At the status conference on 9/24/19, this Court set a deadline of 10/4/19 for debtor to file a status report and an application to employ new counsel. Why has no status report been filed?

(d) Missing Local Form F 2014-1

Debtor has filed an application to employ Pena & Soma, APC (dkt. 68), but the posted Procedures of Judge Bason require Local Form 2014-1. Where is that form?

(e) Motion of United States Trustee ("UST") to Dismiss etc. ("MTD," dkt. 37), Debtor's Opposition (dkt. 55)

Has Debtor address the issues raised in the UST's MTD? In addition, this Court's order setting procedures (dkt.9) provides that at any status

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conference this Court may take case-dispositive actions, such as conversion, dismissal, etc.

- (2) Deadlines/dates. This case was filed on 8/1/19.
- (a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).
 - (b) Procedures Order: dkt.9 (timely served, dkt.44)
 - (c) Plan/Disclosure Statement*: TBD
 - (d) Continued status conference: 11/5/19 at 1:00 p.m., *brief* status report due 10/28/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required.

(1) Current issues

(a) Motion to Dismiss, Convert or Appoint a Chapter 11 Trustee (dkt. 37), Debtor's Opposition (dkt. 55), no reply is on file

If Debtor is not in full compliance with all UST requirements by the hearing, this Court will determine whether to dismiss, convert or appoint a chapter 11 trustee in this case.

(b) Application to Employ Ure Law Firm (dkt. 24), Statement of Disinterestedness (dkt. 23), Maxim's Oppositions (dkt. 31, 50), Notice of hearing (dkt. 40), Debtor's Reply (dkt. 61)

The tentative ruling is to deny Debtor's request to employ the Ure Law Firm ("Ure Firm"), and set a **10/4/19** deadline for Debtor to file and serve an application to retain new counsel, for the following reasons:

- (i) Mr. Ure and the Ure Firm are not "disinterested" and

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represent an "adverse interest" to the estate by reason of their representation of HDA Trucking, Inc. and Nelson Sargsyan

11 U.S.C. Section 327(a) "requires the application of a two-pronged test for the employment of professional persons. A debtor-in-possession may employ attorneys with court approval only if (1) they do not hold or represent an interest adverse to the estate, and (2) they are disinterested persons." *In re Tevis*, 347 B.R. 679, 687 (9th Cir. BAP 2006).

The term "adverse interest" is not defined in the Bankruptcy Code, but has been defined by case law to mean:

(1) possession or assertion of an economic interest that would tend to lessen the value of the bankruptcy estate; or (2) possession or assertion of an economic interest that would create either an actual or potential dispute in which the estate is a rival claimant; or (3) possession of a predisposition under circumstances that create a bias against the estate.

Tevis, 347 B.R. 679, 688. "To represent an adverse interest means to serve as an attorney for an entity holding such an adverse interest." *Id.*

The term "disinterested person" is defined in the Bankruptcy Code to include, *inter alia*, one who "does not have an interest materially adverse to the interests of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason." 11 U.S.C. Section 101(14) (C). "For the purpose of disinterestedness, a lawyer has an interest materially adverse to the interest of the estate if the lawyer either holds or represents such an interest." *Tevis*, 347 B.R. 679, 688.

The tentative ruling is to find that because Mr. Ure and the Ure Firm represented HDA Trucking, Inc. ("HDA Trucking") in its recent bankruptcy case (Case No. 1:19-bk-11595-DS) (the "HDA Trucking Bankruptcy Case"), and have represented HDA Trucking's principal, Nelson Sargsyan ("Mr. Sargsyan"), in his pending bankruptcy case (Case No. 1:19-bk-10790-VK) (the "Sargsyan Bankruptcy Case"), the Ure Firm is not a "disinterested person" and represents an "adverse interest" to the estate for purposes of this case because Debtor's Bankruptcy Schedules identify HDA Trucking as a creditor of Debtor's estate (see dkt. 1, PDF pp.6 & 16) and because there have been inconsistent representations made by HDA, Sargsyan, and Debtor regarding the chain of interests in 8527 Hedges Way, Los Angeles, California 90069 (the "Hedges Property"), which is the real property that is at

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the center of all these bankruptcy cases.

(ii) Mr. Ure and the Ure Firm violated Rule 2014(a) by failing to disclose their connection with Mr. Sargsyan and HDA Trucking

Rule 2014(a) (Fed. R. Bankr. P.) requires that a firm's application for employment disclose "all of the [applicant's] connections with the debtor, creditors, [or] any other party in interest" The disclosure requirements of Rule 2014 are strictly applied. *In re Park-Helena Corp.*, 63 F.3d 877, 881 (9th Cir. 1995). Professionals "cannot pick and choose which connections are irrelevant or trivial . . . No matter how old the connection, no matter how trivial it appears, the professional seeking employment must disclose it." *Id.* at 882.

In this case, Mr. Ure and the Ure Firm failed to disclose their prior representation of HDA Trucking in its bankruptcy case, or their prior and current representation of Mr. Sargsyan in his bankruptcy case, in either the Application (dkt. 24) or the Statement of Disinterestedness (dkt. 23).

For the foregoing reasons, the tentative ruling is that the Ure Firm is disqualified from representing the Debtor and its employment must be denied.

(c) Maxim's Rule 9011 Sanction Motion (dkt. 32), Mr. Ure/Ure Firm's Opposition (dkt. 54), Maxim's Reply (dkt. 57)

Maxim Commercial Capital, LLC ("Maxim") seeks an order imposing sanctions against Mr. Ure and the Ure Firm for alleged violations of Rule 9011 (Fed. R. Bankr. P.).

(i) Background

As best as this Court can discern from its review of various pleadings filed in this case, the Sargsyan Bankruptcy Case, and the HDA Trucking Bankruptcy Case, the relevant facts are as follows:

On 4/7/16 Maxim made a loan to NAMR 2617, LLC ("Other-NAMR") in the sum of \$2,669,365 (the "Loan"). The Loan was personally guaranteed by Mr. Sargsyan and Alice and Nazaret Chakrian (the "Chakrians," and together with Mr. Sargsyan, the "Guarantors"). The Guarantors also executed a deed of trust securing their guaranties of the Loan against the Hedges Property.

On 12/30/16, Mr. Sargsyan recorded a Grant Deed conveying his interest in the Hedges Property to Nazaret Chakrian ("Mr. Chakrian") (dkt. 11, PDF p. 352-356). The parties subsequently executed a number of loan modifications and, ultimately, the Loan fully matured without timely payment. As a result, the Hedges Property was noticed for a judicial foreclosure sale on 4/5/19.

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On 4/3/19 Mr. Sargsyan filed a voluntary chapter 7 petition and asserted a 25% ownership interest in the Hedges Property (Sargsyan Bankruptcy Case, 1:19-bk-10790-VK, dkt. 1, Schedule A/B). On 5/1/19 Maxim filed a motion for relief from the automatic stay with respect to the Hedges Property (the "Sargsyan R/S Motion," *id.*, dkt. 18). Mr. Ure, acting for Debtor Sargsyan, filed an opposition (*id.*, dkt. 33, p.2:1-3), which did not argue that Debtor Sargsyan had any interest in the Hedges Property (contrary to what he had indicated in his bankruptcy schedules) but did argue that Mr. Sargsyan had "personally guaranteed the loan" with Maxim.

Following a hearing on the Sargsyan R/S Motion, the Bankruptcy Court entered an order denying the motion as moot based on the Court's finding that the Hedges Property was not property of Mr. Sargsyan's estate because Mr. Sargsyan had conveyed away his interest in the Hedges Property to Nazaret Chakrian ("Mr. Chakrian") pre-petition, on 9/30/16 (*see id.*, dkt. 51, Ex. 1) (the "Sargsyan R/S Order"). After entry of the Sargsyan R/S Order, Maxim re-noticed a foreclosure sale for 8/2/19.

On 6/28/19, Mr. Sargsyan caused HDA Trucking to file a voluntary chapter 11 petition and assert an ownership interest in the Hedges Property (HDA Trucking Bankruptcy Case, 1:19-bk-11595-DS, dkt.1, Schedule A/B). According to Maxim, HDA Trucking has no such interest in the Hedges Property.

On 7/24/19, the United States Trustee (the "UST") filed a motion to appoint a trustee or convert or dismiss that case (*id.*, dkt. 24). At the hearing on that motion, HDA Trucking stipulated to the dismissal of the case and the case was dismissed by order entered 7/31/19 (*id.*, dkt. 27).

On 8/1/19 the instant bankruptcy case was filed by Debtor (which is similarly named, but not the same as, the Other-NAMR). Debtor asserts an interest in the Hedges Property pursuant to a Grant Deed recorded on 4/2/19 in which Mr. Chakrian conveyed a 10% interest in the Hedges Property to Debtor (dkt. 1, Schedule A/B & dkt. 11, PDF pp. 361-364).

Almost immediately after this bankruptcy case was filed, Maxim filed an emergency motion for relief from the automatic stay and this Court shortened time, reviewed briefs, heard arguments, made oral findings of fact and conclusions of law on the record, and issued an order that prevented any future bankruptcy case from affecting the Hedges Property (subject to the usual limitations on such relief). Dkt.36. But this Court declined to terminate the automatic stay at this time (*id.*) because, among other things, (A) other

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creditors' interests are at stake, (B) on the evidence presented Maxim's interests are fully adequately protected, and (C) Debtor may be able to restructure its finances in a manner that will benefit all parties in interest.

At that early hearing this Court suggested that a transfer of a fractional interest among related entities is not necessarily evidence of bad faith. This Court took judicial notice that debtors and their affiliates not infrequently engage transfers of fractional interests as a way to balance the accounts among them, or for other reasons that may be perfectly consistent with good faith, even if they violate provisions of loan documents or other obligations.

But this Court's unwillingness to suppose bad faith at the inception of this case, before adequate time to respond, should not be misconstrued as giving a blanket exemption from any subsequent finding of bad faith or other misconduct. This Court is troubled by some of the conduct outlined in Maxim's motion papers.

With this context, this Court turns to Maxim's motion for sanctions.

(ii) Maxim has not established that Judge Bason can or should impose sanctions under Rule 9011 for conduct that occurred in bankruptcy cases that are *not* before Judge Bason

As a preliminary matter, Maxim has not addressed whether it would be proper, or even within the jurisdiction of the instant bankruptcy case, for Judge Bason to impose sanctions regarding any cases that are not pending before Judge Bason. The Sargsyan Bankruptcy Case is still pending before Judge Kaufman, and the HDA Trucking Bankruptcy Case was pending before Judge Saltzman, and the tentative ruling is that any request for sanctions for conduct in those cases must be presented to those Bankruptcy Judges.

That is not to say that prior conduct in other cases is irrelevant. Such prior conduct may establish a pattern of conduct that extends into this case, or may otherwise shed light on the conduct in this case. But the tentative ruling is that Judge Bason will only consider sanctions regarding conduct in the instant bankruptcy case.

(iii) Maxim has not established misconduct in connection with the Sargsyan Bankruptcy Case

Maxim asserts - as part of its argument that Mr. Ure's conduct and the Ure Firm's conduct in this case is sanctionable - that there is a pattern of abuse starting with the filing of the Sargsyan Bankruptcy Case. The tentative ruling is that this assertion is not persuasive.

Nothing in Maxim's papers establishes that it was frivolous or

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otherwise improper for Mr. Ure and the Ure Firm to oppose Maxim's request for relief from the automatic stay in the Sargsyan Bankruptcy Case, in light of Debtor Sargsyan's position as a Guarantor. True, the automatic stay's protection against *in rem* acts generally extends only to property of the debtor (see 1:19-bk-10790-VK, dkt.51 (the Sargsyan R/S Order)); and the automatic stay's protection against *in personam* acts generally extends only to the debtor. See, e.g., *In re Advanced Ribbons and Office Prod's, Inc.*, 125 B.R. 259, 262-67 (9th Cir. BAP 1991) (guarantor, and guarantor's property, not protected). But Maxim has not cited any authority that it was frivolous for Debtor Sargsyan to take the position that acts to foreclose the Hedges Property, based on a debt he guaranteed, were acts "to collect, assess, or recover a claim against the debtor that arose before the commencement of the [bankruptcy] case" within the meaning of 11 U.S.C. 362(a)(6), if not based on existing caselaw then based on a nonfrivolous assertion regarding "extension, modification, or reversal of existing law or the establishment of new law." Rule 9011(b)(2). The tentative ruling is that there is nothing sanctionable in making this argument.

True, Mr. Sargsyan, Mr. Ure, and the Ure Firm should have been more careful in verifying that Debtor did in fact have an interest in the Hedges Property before Debtor Sargsyan said so, under penalty of perjury, in his bankruptcy schedules. And it would have been preferable for the Ure Firm to cite some authority for their position, or expressly argue for an extension of existing law or other nonfrivolous legal grounds, and to amend the bankruptcy schedules once the record ownership of the property became apparent.

But, given the transfers back and forth (described above), and the last-minute scramble that almost invariably precedes an emergency bankruptcy filing, it appears that the original misstatement of ownership in the bankruptcy schedules, and the lack of citation to legal authority in opposing the Sargsyan R/S Motion, are more consistent with a lack of adequate time than any intentional falsehood or misconduct. And once it became apparent that the automatic stay did not protect the property, it is understandable (although not the ideal course of action) to move on and not take the time to amend the bankruptcy schedules.

(iv) Maxim has established apparent misconduct in connection with the HDA Trucking Bankruptcy Case

Maxim asserts that HDA Trucking had no interest in the Hedges Property whatsoever, and yet falsely listed that property on its bankruptcy

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schedules. Dkt.32, p.7:5. The Ure Firm has not offered any explanation why, even after the incorrect assertion by Mr. Sargsyan of an ownership interest in the Hedges Property, it filed another bankruptcy case that, once again, asserted an ownership interest that is not supported by any evidence. The tentative ruling is that this is *prima facie* evidence of the Ure Firm's lack of "inquiry reasonable under the circumstances" and apparent filing of the petition for an improper purpose - namely a scheme to hinder, delay, or defraud Maxim. Rule 9011(b)(1).

Alternatively, the tentative ruling is that this is also *prima facie* evidence of a factual contention that, after "an inquiry reasonable under the circumstances," does not have "evidentiary support," or that has not been "specifically [] identified" as "likely to have evidentiary support after a reasonable opportunity for further investigation or discovery." Rule 9011(b)(3).

In the face of such *prima facie* evidence of a violation of Rule 9011, the burden was on Mr. Ure and the Ure Firm to present contrary evidence of at least equal weight. They have not done so.

Again, the tentative ruling is that this Court should not impose any sanctions for any alleged misconduct in the HDA Trucking Bankruptcy Case. But the apparent violations of Rule 9011 in that case establish a pattern that calls into question any allegedly similar conduct in the instant case.

(v) It is premature for this Court to determine whether the filing of the instant bankruptcy case, or how it has been prosecuted, is sanctionable under Rule 9011

On the one hand, the facts discussed above are evidence that Mr. Ure and the Ure Firm have participated in efforts to frustrate Maxim's exercise of its remedies, and have done so using tactics that appear to violate Rule 9011. It is possible that the transfer of a fractional interest to Debtor, and the filing of the instant bankruptcy case, are part of that scheme and are sanctionable.

On the other hand, it is also possible that the transfer of a fractional interest to Debtor was nothing more than an attempt retroactively to "unscramble the eggs" and have the record title to the Hedges Property reflect what Mr. Sargsyan, the Chakrians, and other affiliates all had intended to be the reality of their financial relationships. True, Mr. Ure and the Ure Firm have had an opportunity to present any such explanation, with supporting evidence, and they have failed to do so. But this Court is wary of imposing sanctions without providing them with an opportunity to explain why

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they did not offer an explanation in their opposition papers, and why they should be granted an opportunity to do so now.

In addition, depending on how this instant bankruptcy case progresses, it may become more apparent over time whether there is a reasonable possibility of a successful reorganization within a reasonable time, and other factors that might bear on whether this case was or was not filed in good faith. It is also possible that Debtor will obtain refinancing and pay Maxim in full, or that some other developments in this case will bear on issues such as whether Maxim has suffered any un-reimbursed expenses, all of which may be relevant to its sanctions motion.

For all of these reasons the tentative ruling is that it is premature for this Court to determine any sanctions issues, and the tentative ruling is to take Maxim's sanctions motion off calendar, and determine at a future status conference when it should be put back on calendar. Meanwhile, the tentative ruling is that no further briefing on the sanctions issues will be accepted or considered absent further order of this Court.

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).

(b) Procedures Order: dkt.9 (timely served, dkt.44)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 10/15/19 at 1:00 p.m., *brief* status report due 10/4/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

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(1) Current issues

What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/26/19 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/26/19 at 1:00 p.m., no status report

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

NAMR1726 LLC

Represented By
Thomas B Ure

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2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#17.00 Status conference re: Post confirmation
fr. 6/11/19, 7/2/19

Docket 74

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Debtor is directed to address (1) why the status report due 10/1/19 was not filed (see Order, dkt.94, ordering para.4), (2) whether Debtor has been making the required payments and is otherwise in compliance with the confirmed Plan, and (3) the issues raised by this Court's order (dkt.106) setting this hearing on Debtor's application (dkt.103) for a final decree.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#18.00 Hrg re: Motion for relief from stay [NA]

POSER INVESTMENTS, INC.
vs
DEBTOR

Docket 137

Tentative Ruling:

Please see the tentative ruling for the status conference (cal. no. 21, 10/15/19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Movant(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Rafael R Garcia-Salgado
Richard J Reynolds

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#19.00 Hrg re: Application for payment of second Interim
Fee Application for A.O.E Law Associates, APC,
Debtor's Attorney

Docket 134

Tentative Ruling:

Please see the tentative ruling for the status conference (cal. no. 21, 10/15/19
at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

#20.00 Order to Show Cause Why This Court Should Not Convert
or Dismiss This Case, or Appoint a Chapter 11 Trustee

Docket 140

Tentative Ruling:

Please see the tentative ruling for the status conference (cal. no. 21, 10/15/19
at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

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#21.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19, 4/9/19;
04/30/19, 05/21/19, 06/04/19, 7/2/19, 8/20/19,
9/24/19

Docket 26

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances are not required

(1) Current issues.

(a) AOE Fee Application (dkt. 134, 145)

Grant in part, and award **\$16,345** of the requested \$19,345 in fees, and \$0 in expenses. The tentative ruling is to disallow \$3,000 of the time spent on motions for setting property values (dkt.134, p.9:9-12) because that time has not been sufficiently justified (as explained at prior hearings).

Proposed order: AOE is directed to lodge a proposed order via LOU within 7 days after the hearing date, and include a copy of the foregoing language from this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing if this tentative ruling is properly contested. See LBR 9021-1(b)(1)(B).

(b) Poser Investments, Inc. ("Poser") v. Ebuehi et al. (Adv. No. 2:18-ap-01431-NB), Motion for Attorney's Fees ("Poser Fee Motion," adv. dkt. 63), and Relief From Stay Motion ("R/S Motion," dkt.137)

The parties should be prepared to address whether attorney fees incurred in matters that were pending before different Judges should be determined by those Judges (*i.e.*, the State Court Judge who was presiding over this action before it was removed, and the Bankruptcy Court Judge who was presiding over Plaintiffs/Debtors' prior bankruptcy case, no. 2:18-bk-16992-RK). Put differently, the parties are directed to address whether this Bankruptcy Court (i) lacks jurisdiction and authority to determine what attorneys fees to award for litigation that occurred when this matter was

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pending before other Judges, or (ii) should defer to those other Judges under principles of comity, abstention, or similar doctrines.

The tentative ruling is that, notwithstanding the foregoing questions, this Bankruptcy Court has jurisdiction and authority to determine the allowability of all of the requested attorney fees, because the removed action is currently pending in this Bankruptcy Court. The tentative ruling is that it would be an unwarranted imposition on other Judges to have them address fractional pieces of the requested compensation, especially when the parties' disputes did not go to trial and this Bankruptcy Court appears to be in at least as good a position to review time spent on pretrial preparation and other matters. In addition, Plaintiffs/Debtors have not filed any opposition papers, so any contrary arguments are waived and forfeited.

On the merits of the requested attorney fees, this Bankruptcy Court has carefully reviewed the motion papers including the daily time records. The tentative ruling is to allow all fees requested in the Poser Fee Motion except the following apparently duplicative time entries: (A) on 8/30/18 Ms. Gomez has several entries with identical or nearly identical text (dkt.63, Ex.2, p.26), and the tentative ruling is to disallow 0.3 hours (a reduction of \$40.50); and (B) on 4/30/19 Mr. Reynolds has two entries for appearing at a hearing on the motion for summary judgment (one for 5.1 hours and another for 5.6 hours, including other tasks) (dkt.63, Ex.2, p.31), and the tentative ruling is to disallow 5.1 hours (a reduction of \$2,244.00). That amounts to a total reduction of \$2,284.50 (\$2,244.00+\$40.50 = \$2,284.50). In addition, counsel are cautioned that some time entries reflect "lumping" of multiple tasks without a breakdown of time spent on each discrete task, but the tentative ruling is not to impose any reduction on that basis.

Based on the foregoing, the tentative ruling is to award fees of **\$182,836.00** (\$185,120.50-\$2,284.50 = \$182,836.00) and \$0 expenses. That dollar amount must be added to Poser's lien against Debtors' properties. See Findings/Conclusions (adv.dkt.47) and Judgement (adv.dkt.56).

In addition, the tentative ruling is to grant Defendant Poser's R/S Motion (dkt.137) so that it may return to the Federal District Court (the court that issued the underlying judgment on which Poser's liens are founded) and move to have its costs of enforcing that Court's judgment, including its attorney fees, added to the judgment. In addition, the tentative ruling is to grant Poser's request that such relief from the automatic stay be binding and effective in any future bankruptcy case, no matter who the debtor may be ("*in*

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rem" relief), subject to the following limitations.

The tentative ruling is that this Court may grant such *in rem* relief pursuant to 11 U.S.C. 362(d)(4), because Poser is a creditor whose claim is secured by an interest in real property, and the filing of the present bankruptcy petition was part of a scheme to delay, hinder, or defraud creditors that involved unauthorized transfers (which Debtors subsequently purported to unwind, but which caused Poser considerable additional expense). 11 U.S.C. 362(d)(4)(A). Alternatively, that scheme involved multiple bankruptcy filings (Case Nos. 2:18-bk-16992-RK and 2:18-bk-20704-NB). 11 U.S.C. 362(d)(4)(B). Alternatively, the tentative ruling is that *in rem* relief is warranted pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017).

The tentative ruling is that any such relief will be subject to the following limitations, to be added to the proposed order (dkt.137, Exhibit):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within 180 days after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case based upon changed circumstances or for good cause shown, after notice and a hearing.

For the avoidance of doubt, any acts by Poser Investment, Inc. to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Proposed orders: Based on the foregoing tentative rulings on the Poser Fee Motion and the R/S Motion, Poser is directed to lodge proposed orders via LOU within 7 days after the hearing date, and include a copy of the foregoing language from this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing if this tentative ruling is properly contested. See LBR 9021-1(b)(1)(B).

(c) Order to Show Cause ("OSC") re Conversion, Dismissal or Appointment of Chapter 11 Trustee (dkt. 140, 144)

The tentative ruling is to convert this case to chapter 7 for the reasons stated in the OSC.

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Proposed order: Poser is directed to lodge a proposed order via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing if this tentative ruling is properly contested. See LBR 9021-1(b)(1)(B).

- (2) Deadlines/dates. This case was filed on 9/12/18.
- (a) Bar date: 1/11/19 (timely served, dkt. 59).
 - (b) Plan/Disclosure Statement*: N/A
 - (c) Continued status conferences (bankruptcy case and Poser v. Ebuehi): 10/29/19 at 1:00 p.m. (concurrent with other matters on calendar) No status reports are required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances are not required.

(1) Current issues. This Court has reviewed the Debtors' Status Report (dkt. 132) and the Response filed by Poser Investments, Inc. ("Poser") (dkt. 133).

(a) OSC re Conversion, Dismissal or Appointment of Chapter 11 Trustee

At the start of this case, this Court issued an Order putting all parties on notice that "[w]ithout further notice this Court . . . may issue appropriate orders including on: . . . (b) case disposition (e.g., appointment of a trustee, conversion, dismissal" Dkt. 25, p. 1-2. That order was served on all parties in interest. Dkt.48.

Poser requests that this Court issue an Order to Show Cause ("OSC") directing the Debtor to appear and show cause why this Court should not convert, dismiss or appoint a chapter 11 trustee in this case. The tentative ruling is to issue such an OSC, and direct Poser to serve that OSC and a copy of Poser's response (dkt.133) on all creditors listed in the creditor

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mailing matrix, as a "belt and suspenders" notice to all interested parties that this Court is considering granting such relief. This Court will prepare the OSC with a hearing date of October 15, 2019 at 1:00 p.m. to be heard concurrently with other matters on calendar for that date.

(b) Mediation

The tentative ruling is not to issue any further orders regarding mediation or other settlement efforts at this point - the parties remain free to engage in voluntary discussions.

(c) Poser Investments, Inc. v. Ebuehi et al. (Adv. No. 2:18-ap-01431-NB)

This Court has issued its decision, its order denying Debtors/Defendants' counterclaim motion, and its judgment in favor of Poser Investments, Inc. See adv.dkt.47, 55, 56. Debtors have stated their intention to appeal and Poser has stated its intention to file motions for relief from the automatic stay and for attorney fees and costs. The tentative ruling is to continue the status conference in the adversary proceeding to the same date and time as the continued status conference in the bankruptcy case.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conferences (bankruptcy case and Poser v. Ebuehi): 10/15/19 at 1:00 p.m. No status reports are required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

CONT... Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 11

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#22.00 Hrg re: Plaintiff Poser Investments, Inc.'s motion for attorney's fees

Docket 63

Tentative Ruling:

Please see the tentative ruling for the main case status conference (cal. no. 21, 10/15/19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase
Cliff Schneider

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase
Cliff Schneider

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

CONT... Finnian Osakpamwan Ebuehi

Chapter 11

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 11

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#23.00 Cont'd Status Conference re: Removal
fr. 2/5/19, 4/9/19; 04/30/19, 05/21/19, 06/04/19,
7/2/19, 8/20/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the main case status conference (cal. no. 21, 10/15/19 at 1:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 18, 9/24/19 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

CONT... Finnian Osakpamwan Ebuehi

Chapter 11

2551 YORKSHIRE WAY TRUST, Pro Se

1580 W. 2ND STREET TRUST, Pro Se

DOES 1 through 100, inclusive Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

#24.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19, 5/14/19, 6/11/19, 7/30/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances are not required on 10/15/19.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19, dkt. 82).

(b) Plan/Disclosure Statement*: TBD (see dkt.199, order extending exclusivity).

(c) Continued status conference: 12/17/19 at 1:00 p.m., *brief* written status report due 12/3/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Koi Design LLC

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

CONT...

Koi Design LLC

Susan K Seflin
Jessica L Bagdanov

Chapter 11

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01135 Koi Design LLC v. Strategic Partners, Inc.

#25.00 Cont'd status Conference re: Complaint for
Avoidance of Judicial Liens and Declaratory
Relief
fr. 7/16/19, 7/30/19, 9/24/19

Docket 1

***** VACATED *** REASON: Stipulation to continue to 12/17/19 at 1:00
p.m. filed 10/8/19 (adv. dkt. 22)**

Tentative Ruling:

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

Strategic Partners, Inc.

Represented By
Howard Camhi

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01197 Koi Design LLC v. Mastroianni et al

#26.00 Cont'd status conference re: Complaint (1) Intentional Breach of Fiduciary Duty; (2) Fraudulent Concealment; (3) Breach of Fiduciary Duty; (4) Legal Malpractice; (5) Negligent Supervision; (6) Constructive Fraud; (7) Avoidance and Recovery of Fraudulent Transfers; and (8) Turnover of Property of the Estate fr. 9/3/19, 9/10/19

Docket 1

***** VACATED *** REASON: Reference withdrawn (see adv.dkt.32)**

Tentative Ruling:

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

A. Douglas Mastroianni

Pro Se

Marron Lawyers, APC

Pro Se

The Bloom Firm, APC

Pro Se

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#1.00 Hrg re: Debtor's amended motion in Individual Ch 11 Case for Order approving a budget for the use of the debtor's cash and postpetition income

Docket 30

***** VACATED *** REASON: Resolved by Stipulation (dkt.41) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#2.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19

Docket 4

***** VACATED *** REASON: Continued to 11/5/19 at 1:00 PM (not 10:00
a.m., as stipulated by the parties, dkt.41).**

Tentative Ruling:

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#3.00 Hrg re: Debtor's emergency motion for entry of an order authorizing debtor to provide adequate assurance of future payment to utility companies pursuant to 11 U.S.C. section 366

Docket 3

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 4, 10/15/19 at 2:00 p.m.)

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#3.10 Cont'd hrg re: Debtor's emergency motion for entry of an interim order, pending a final hearing authorizing the debtor to use cash collateral fr. 10/2/19

Docket 5

Tentative Ruling:

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference (calendar no. 4, 10/15/19 at 2:00 p.m.)

[PRIOR TENTATIVE RULING OMITTED]

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#4.00 Cont'd status conference re: Chapter 11 case
fr. 10/2/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances are not required on 10/15/19.

(1) Current issues

(a) Utility motion (dkt. 3)

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt. 5)

Grant on a further interim basis on the same terms and conditions as previously ordered (dkt.37) with a further interim hearing on 10/29/19 at 2:00 p.m.

(2) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 2:00 p.m. Case status report on Local Form F 2081-1.1.STATUS.RPT due 10/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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2:00 PM

CONT... **Tatung Company of America, Inc.**

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/19:

Appearances required. The parties are directed to address whether there was adequate notice of this hearing, and the merits of each motion, as set forth below.

(1) Notice of this hearing

Debtor must address whether the proof of service of the motion papers (the "POS," dkt.21) complies with this Court's order shortening time ("OST," dkt.10), or due process. The OST provides that the deadline for "**RECEIPT**" of written notice of this hearing/a copy of the OST is **10/1/19 at noon**. *Id.* (emphasis in original). In two ways, this Court questions whether the POS complies with this direction.

First, the POS only appears to assert that envelopes were dropped off with an (unspecified) "Overnight Mail" carrier on 10/1/19, which would mean that those envelopes would not be received until **10/2/19** at the earliest, possibly just shortly before the hearing or even after the hearing.

Second, this Court questions whether delivery really was "overnight" to Taiwan, South Korea, China, and other overseas destinations.

(2) Merits of each motion

If the foregoing notice issue is adequately addressed, the tentative rulings are as follows.

(a) Payroll motion (dkt. 2)

Grant on a final basis, subject to any opposition at the hearing, and subject to authorization to use cash collateral to make payroll (see below).

(b) Cash management motion (dkt.4)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing at the same time as the continued status conference (see below).

(c) Cash collateral motion (dkt.5)

Debtor's budget (dkt.8, Ex.1) lacks historical context. Are the proposed expenditures and projected receipts in line with historical experience? Is it

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Tuesday, October 15, 2019

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2:00 PM

CONT... **Tatung Company of America, Inc.**

Chapter 11

typical for Debtor's cash position to fluctuate so substantially from week to week? Are the goods that Debtor anticipates selling in keeping with Debtor's historical lines of business, and with existing customers, or is Debtor projecting the replacement of some past lines of business with new lines?

Subject to (i) adequate resolution of the foregoing, (ii) any opposition at the hearing, and (iii) the conditions set forth in calendar no. 3 (on 10/2/19 at 2:00 p.m.), the tentative ruling is to grant this motion on an interim basis, with a further interim hearing at the same time as the continued status conference (see below).

(d) Notice of continued hearings

The tentative ruling is to set a deadline of 10/3/19 for Debtor to file and serve via U.S. mail a notice of the continued hearings.

(e) Proposed orders

This Court anticipates filing a "Memorialization of Tentative Rulings." Debtor is directed to lodge proposed orders that reference that document and incorporate the tentative rulings as final rulings, except as they may be modified at the hearing. See LBR 9021-1(b)(1)(B).

(3) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/15/19 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

CONT... Tatung Company of America, Inc.

Chapter 11

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19

Docket 1

***** VACATED *** REASON: Cont'd to 11/12/19 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01069 Pimentel v. Layfield et al

#6.00 Cont'd hrg re: Motion to Dismiss 1st amended complaint pursuant to rule 7012 and Rule 12(B)(6) of the FRCP fr. 9/10/19

Docket 26

Tentative Ruling:

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 6.2, 10/15/19 at 2:00 p.m.)

Tentative Ruling for 9/10/19:

Please see the tentative ruling for the status conference in the *Layfield & Barrett* case (calendar no. 4, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

WESLEY Howard AVERY

Pro Se

Affeld Grivakes LLP

Represented By
Damion Robinson

Plaintiff(s):

Rodney A Pimentel

Represented By
Yana G Henriks

Trustee(s):

Wesley H Avery (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
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2:00 PM

CONT...

Philip James Layfield

Chapter 7

Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#6.10 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19, 7/30/19, 10/1/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 6.2 (10/15/19 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 15, 2019

Hearing Room 1545

2:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#6.20 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19, 9/10/19, 10/1/19

Docket 323

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances are not required on 10/15/19. See below for tentative dispositions of various matters, and continuances.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases and associated matters: (i) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (ii) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."); (iii) *Pimentel v. Layfield et al.*, Adv.No. 2:19-ap-01069-NB ("Pimentel Adv."); and (iv) *Hickey v. Layfield* (Adv No. 2:19-ap-01070-NB) ("Hickey-523 Adv.").

(b) L&B, status conference

Continue as set forth in part "(2)" of this tentative ruling, below.

(c) Lay-Invol, status conference

Continue as set forth in part "(2)" of this tentative ruling, below.

(d) *Pimentel Adv.*, Defendant/Debtor Mr. Layfield's motion to dismiss ("MTD," adv.dkt.26) Plaintiff Mr. Pimentel's First Amended Complaint ("FAC," adv.dkt.20)

Deny the MTD insofar as it seeks to dismiss nondischargeability claims against Mr. Layfield, for the reasons stated in the opposition (adv.dkt. 28). See also Decision and Order of State Bar Court, pp.4-5 (Ex.2 to FAC, adv.dkt.20) (issue preclusive findings of fact and conclusions of law).

Deny the MTD insofar as it seeks to dismiss what the MTD calls claims for "*in rem*" relief, because Mr. Layfield as a chapter 7 debtor lacks standing

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2:00 PM

CONT... **Layfield & Barrett, APC**

Chapter 11

to dispute whether certain funds are or are not property of the bankruptcy estate, or that certain alleged transfers to third parties are or are not avoidable.

Grant the MTD, with leave to amend the FAC, as to the fraudulent transfer claims, insofar as the MTD asserts a failure to join indispensable parties. Note: This Court expresses no opinion whether Plaintiff has standing to assert claims for fraudulent transfers (as distinguished from the standing of the trustees for the L&B and Layfield bankruptcy estates to assert fraudulent transfers).

Specifically, the indispensable parties issue is as follows. The FAC's second claim for relief (FAC para. 38-49) asserts claims for "fraudulent transfer and/or concealment ..." (emphasis added), and Pimentel seeks "a judgment of the Court avoiding all fraudulent transfers of property to Defendants which are traceable to amounts owed to the Plaintiff." FAC para.49 (adv.dkt.20, p.11:24-26) (emphasis added). The MTD argues that the FAC fails to join indispensable parties with respect to any such fraudulent transfers: "Pimentel alleges Barrett facilitated the fraudulent transfers between [Mr. Layfield individually and/or L&B] and A&G" but "Pimentel has failed to join L&B" or "Maximum Legal (California), LLP," "The Barrett Law Firm," or "Wakefield." MTD (adv.dkt.26) pp.3:28-4:6. The tentative ruling is that at least some of those parties, and apparently all of them, are indispensable to Mr. Pimentel's fraudulent transfer claims, because he appears to assert that all of those parties were recipients or intermediate or mediate transferees of the transfers and/or participated in the alleged transfers and/or are subject to liability for the alleged transfers.

After the hearing this Court will prepare an order.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

- (a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)
- (b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)
- (c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.
- (d) Continued status conferences (L&B, Lay-Invol, Pimentel Adv., and Hickey-523 Adv.):

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Hearing Room 1545

2:00 PM

CONT...

Layfield & Barrett, APC

Chapter 11

- (i) Continue the L&B and Lay-Invol status conferences to 11/12/19 at 2:00 p.m., to be heard concurrently with other matters. No status reports required.
- (ii) Continue the Pimentel Adv. and Hickey-523 Adv. status conferences to 3/31/2020 at 11:00 a.m., so as to be after some pending criminal proceedings against Mr. Layfield that may have preclusive effects in those adversary proceedings, and because that date has already been set for a continued status conference in *Pachulski v. Layfield* (Adv. No. 2:19-ap-01071-NB) ("Pachulsky-523 Adv.").

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/1/19:

Appearances are not required on 10/1/19. See below for tentative dispositions of various matters, and continuances.

(1) Current matters

(a) Combined Status Conference

This Status Conference involves two related bankruptcy cases and associated matters: (a) *In re Layfield & Barrett, APC*, Case No. 2:17-bk-19548-NB ("L&B"); (b) *In re Layfield*, Case No. 2:18-bk-15829-NB ("Lay-Invol."); (c) *Pimentel v. Layfield et al.*, Adv.No. 2:19-ap-01069-NB ("Pimentel Adv."); (d) *Affeld Grivakes LLP v. Pachulski*, Adv. No. 2:19-ap-01028-NB ("Affeld Grivakes Adv.").

(b) Affeld Grivakes Adv, status conference

This Court has reviewed the parties' joint status report (Affeld Grivakes Adv.dkt.9). The tentative ruling is to set a discovery cutoff of October 31,

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CONT... **Layfield & Barrett, APC**

Chapter 11

2019, a trial date of 12/3/19 at 9:00 a.m., and a pretrial conference of 11/12/19 at 2:00 p.m. The parties are directed to review the posted Procedures of Judge Bason regarding trials (available at www.cacb.uscourts.gov).

(c) L&B, status conference

Continue to 10/15/19 at 2:00 p.m., to be heard concurrently with related matters. No status report required.

(d) Lay-Invol, status conference

Continue to 10/15/19 at 2:00 p.m., to be heard concurrently with related matters. No status report required.

(e) Pimentel Adv., Affeld Grivakes' motion to dismiss first amended complaint (adv. dkt. 24) ("MTD"), Mr. Pimentel's opposition (adv. dkt. 30), Affeld Grivakes' reply (adv. dkt. 32)

The tentative ruling is to grant the MTD, without leave to amend, *only as against Affeld Grivakes LLP* ("Affeld-G"), as follows.

(i) Plaintiff has not alleged sufficient facts to state a claim for constructive trust or restitution, and any associated declaratory relief

Plaintiff's first claim for relief appears in parts to seek only declaratory relief, and in other parts it apparently seeks a constructive trust against settlement proceeds that allegedly were used to fund the litigation of cases transferred from Layfield & Barret (the alleged alter ego of Mr. Layfield) to Mr. Barrett and then from him to Affeld-G. Specifically, Plaintiff alleges that an unspecified amount of funds owed to Plaintiff "were used to fund one or two of Layfield's pending contingency fee cases." (First Amended Complaint ("FAC"), adv. dkt. 20, p. 8:3-4).

Plaintiff has not cited any legal authority establishing the imposition of a constructive trust on facts similar to those alleged in the FAC – *i.e.* where Plaintiff's money was allegedly converted into services that were commingled with other services that resulted in a recovery in a different case. The tentative ruling is that this is several "bridges too far" - Plaintiff may well have a claim against L&B and/or Mr. Layfield (and possibly others, such as Mr. Barrett), but the FAC fails to allege sufficient grounds for the imposition of any constructive trust in these circumstances.

Absent any constructive trust, the other aspects of this claim for relief

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CONT... Layfield & Barrett, APC

Chapter 11

do not appear to have any basis. The tentative ruling is that Plaintiff has failed to state a claim for relief for declaratory relief, the imposition of a constructive trust, or restitution.

(ii) Plaintiff has not alleged sufficient facts to state a claim for relief under 727(a)(2)

Plaintiff's second claim for relief asserts a claim under 11 U.S.C. Section 727(a)(2). Although Plaintiff argues in opposition to the MTD that he has alleged sufficient facts to state a claim for avoidance of a fraudulent transfer (adv. dkt. 30, p. 13:1-3), he insists that he is only seeking relief under Section 727 and not 11 U.S.C. 548 (*id.*, p. 30:5-14). Because Section 727 is limited to whether to grant or deny a debtor's discharge, and Affeld-G is not a debtor, Plaintiff has not and cannot state a claim against Affeld-G under Section 727(a)(2).

(iii) Plaintiff's request for leave to amend

The tentative ruling is that, for the reasons stated above, leave to amend would be futile. The tentative ruling is to dismiss the complaint (solely as against Affeld-G) without leave to amend.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences (L&B and Lay-Invol): continue to 10/15/19 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

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CONT... Layfield & Barrett, APC

Chapter 11

Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-22648 Checkmate King Co., LTD

Chapter 11

Adv#: 2:18-01062 Checkmate King Co., LTD v. Radiology Solutions Corp. et al

#7.00 Cont'd Status Conference re: Complaint for (1) Breach of Contract; (2) Claim and Delivery; (3) Conversion; (4) Breach of Guaranty; (5) Fraud; (6) Preliminary Injunction; and (7) Constructive Trust fr. 5/8/18, 6/12/18, 6/19/18, 07/10/18, 08/14/18, 9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/15/19, 3/26/19, 05/21/19, 7/2/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Continue to 10/29/19 at 2:00 p.m. to be heard concurrently with other matters on calendar in related proceedings. No appearances required on 10/15/19.

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 13, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

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Chapter 11

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18 (same as for 6/19/18):

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 2, 7/10/18 at 2:00 p.m.).

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current Issues.

(a) Joint Status Report and Notice of Continuances. This Court's 5/8/18 tentative ruling (see below) was not opposed, so it became this Court's actual ruling.

This Court directed (i) Checkmate to file and serve a notice of continuances attaching and incorporating by reference the deadlines in that tentative ruling by 5/7/18, and (ii) the parties to file a brief joint status report by 5/29/18. As of the preparation of this tentative ruling, none of the parties have complied. The parties are cautioned that failure to abide by applicable deadlines in future may result in adverse consequences.

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CONT... Checkmate King Co., LTD

Chapter 11

(b) Motion for TRO & Claim and Delivery (adv. dkt. 10).

Plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") has filed a stipulation (adv. dkt. 30) with defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") for turnover of equipment. But Checkmate has not provided any evidence that it has relief from the automatic stay and consent of the Chapter 7 Trustee in the RS and Fower bankruptcy cases for such turnover (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA). The tentative ruling is to set a deadline of 6/19/18 for Checkmate to file a declaration attaching evidence sufficient to establish those things, and lodge a revised proposed order to approve the stipulation.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time. Continue to 7/17/18 at 2:00 p.m., *brief* joint status report due 7/3/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

The tentative ruling is to continue all pending matters in this adversary proceeding to 6/12/18 at 2:00 p.m. for the reason stated below, with a brief joint status report due 5/29/18, and with a deadline of 5/7/18 for the plaintiff to file and serve a notice of continuances attaching and incorporating by reference the deadlines in this tentative ruling (assuming that this Court is not persuaded to depart from this tentative ruling). Appearances are not required on 5/8/18.

(1) Current Issues. This Court has reviewed the parties' status reports (adv. dkt. 24 & 26) and the other filed documents and records in this adversary proceeding.

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CONT...

Checkmate King Co., LTD

Chapter 11

(a) Motion for TRO & Claim and Delivery (adv. dkt. 10). At the 4/9/18 hearing on this motion, counsel for plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") apprised this Court of the bankruptcy filings of defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA) and requested a continuance of this hearing to allow time to obtain orders granting relief from stay with annulment. In the Joint status report (adv. dkt. 24), Checkmate states that the hearings on the relief from stay motions are scheduled for 5/15/18. Accordingly, the tentative ruling is to continue this motion to the date and time set forth at the start of this tentative ruling.

(b) Siemens Motion to Dismiss (adv. dkt. 27, the "MTD"). Defendant Siemens Medical Solutions USA, Inc. ("Siemens") has properly self-calendared its MTD for 6/12/18 at 11:00 a.m. Siemens anticipates that it may be voluntarily dismissed by plaintiff (see adv. dkt. 24), but if that does not occur then this Court anticipates that the MTD may take 15 minutes or more to hear. This Court's practice is that matters anticipated to take 15 minutes or more are heard on the 2:00 p.m. calendar (not available for self-calendaring, except by permission of this Court). Therefore the tentative ruling is to re-calendar the MTD from 11:00 a.m. to 2:00 p.m., which is concurrent with the other matters in this adversary proceeding that are on today's calendar.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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CONT... Checkmate King Co., LTD

Chapter 11

Defendant(s):

Radiology Solutions Corp.

Represented By
Vatche Chorbajian

George Tyler Fower

Represented By
Vatche Chorbajian

Siemens Medical Solutions USA Inc

Represented By
Marsha A Houston

Plaintiff(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

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2:00 PM

2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

#8.00 Cont'd hrg re: Motion For Summary Judgment on all causes of action or in the alternative summary adjudication fr. 10/15/19

Docket 36

Tentative Ruling:

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference (calendar no. 9, 10/15/19 at 2:00 p.m.)

Tentative Ruling for 9/10/19:

Please see the tentative ruling for the status conference (calendar no. 2, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
James R Selth
Michael D Anderson

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian
James R Selth

Valerie Fykes

Represented By
Michael D Anderson

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CONT...

Armen Janian

Chapter 7

James R Selth

Forrest Fykes JR

Represented By
Michael D Anderson
James R Selth

Melissa Fykes

Represented By
Michael D Anderson
James R Selth

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

- #9.00** Cont'd Status Conference re: Complaint for Non-Dischargeability of Debtor Pursuant to 11 U.S.C. Section 523(a)(4) and 11 U.S.C. Section 523(a)(6) fr. 7/19/16, 12/13/16, 05/02/17, 09/12/17, 2/27/18, 6/12/18,10/9/18, 12/18/18, 1/29/19, 2/26/19, 5/7/19, 06/04/19; 08/06/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Continue to 11/12/19 at 2:00 p.m. for finalization of this Court's written decision. That hearing will be a status conference on this adversary proceeding. Appearances are not required on 10/15/19.

Tentative Ruling for 9/10/19:

Appearances required.

(1) Current issues

(a) Plaintiffs' motion for summary judgment ("MSJ," adv. dkt. 36-39), Defendant's opposition (adv. dkt. 41, 42), Plaintiffs' reply (adv.dkt.43), Defendant's motion to strike (adv.dkt.44)

There is no tentative ruling. The parties are directed to address the procedural and substantive issues raised in their filed papers.

(2) Dates/deadlines

This adversary proceeding has been pending since 1/4/16. It has been continued multiple times to permit the parties to finish litigating in non-bankruptcy court.

The tentative ruling is to continue this status conference to 10/15/19 at 2:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Armen Janian

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
James R Selth
Michael D Anderson

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian
James R Selth

Valerie Fykes

Represented By
Michael D Anderson
James R Selth

Forrest Fykes JR

Represented By
Michael D Anderson
James R Selth

Melissa Fykes

Represented By
Michael D Anderson
James R Selth

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#10.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 5/7/19, 05/21/19, 6/18/19, 7/30/19, 8/20/19, 9/17/19

Docket 76

Tentative Ruling:

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference (calendar no. 11, 10/15/19 at 2:00 p.m.)

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the status conference (calendar no. 4, 9/17/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 7, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5, 7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5, 6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

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CONT... Jackies Cookie Connection LLC

Chapter 11

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019, 5/7/19, 05/21/19, 6/18/19, 7/30/19,
8/20/19, 9/17/19

Docket 5

Tentative Ruling:

Tentative Ruling for 10/15/19:

Appearances required.

(1) Current issues

(a) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "UST Motion", dkt. 76)

The parties should be prepared to address whether to grant the UST Motion and, if so, which remedy is in the best interests of creditors and the estate under 11 U.S.C. 1104 and 1112.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (not timely served but excused, dkt. 120)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 11/26/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

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CONT... **Jackies Cookie Connection LLC**

Chapter 11

Appearances required.

(1) Current issues

(a) Debtor's sale motion (the "Sale Motion," dkt. 80), "Haloossim" Brief (dkt. 128), Debtor's reply (dkt. 129), Galant declaration re assets (dkt. 130), sale notice (dkt.131), "Haloossim" bid (dkt.133), Restructuring Advisors LLC bid (dkt.134)

The tentative ruling is to conduct an auction at the hearing and approve a sale of the specified assets, free and clear of liens and other interests, including any successor liability, under 11 U.S.C. 363(b)&(f). Parties wishing a "good faith" finding (11 U.S.C. 363(m)) are referred to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "UST Motion", dkt. 76)

The parties should be prepared to address whether to grant the UST Motion and, if so, which remedy is in the best interests of creditors and the estate under 11 U.S.C. 1104 and 1112.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (not timely served but excused, dkt. 120)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 10/15/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Jackies Cookie Connection LLC

Chapter 11

Debtor(s):

Jackies Cookie Connection LLC

Represented By

Derrick Talerico

Marlee E Sherman

Michael S Kogan

**United States Bankruptcy Court
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Los Angeles
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Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

2:19-20425 James Ryan Dixon and Nakia Janeen Dixon

Chapter 13

#1.00 Hrg re: Motion for order determining value of collaeral
[11 U.S.C. § 506(a), FRBP 3012]

Docket 17

Tentative Ruling:

Grant in part, setting the value of the vehicle at \$1,901, as that is the "replacement value" that a retail merchant would charge the public for a vehicile of similar age and condition, as of the petition date, without deduction for costs of sale or marketing. See dkt. 17, Ex. A; 11 U.S.C. 506(a)(2).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

James Ryan Dixon

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Joint Debtor(s):

Nakia Janeen Dixon

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

**United States Bankruptcy Court
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Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

CONT... James Ryan Dixon and Nakia Janeen Dixon

Chapter 13

Movant(s):

James Ryan Dixon

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

Nakia Janeen Dixon

Represented By
Matthew D. Resnik
Matthew D. Resnik
Roksana D. Moradi-Brovia
Roksana D. Moradi-Brovia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

2:19-20473 Sharyl Gwen Bloom

Chapter 13

#2.00 Hrg re: Motion to Dismiss
Chapter 13 case

Docket 12

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's Schedule D (dkt. 21) and Certificate of Credit Counseling (dkt. 30).

Reasons:

(1) Secured debt limit

11 U.S.C. 109(e) provides in relevant part

Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$419,275 and noncontingent, liquidated, secured debts of less than \$1,257,850 ... may be a debtor under chapter 13 of this title. 11 U.S.C. 109(e).

Debtor's Schedule D shows that she has \$7,329,000 of secured debt. Dkt. 21, p.2. Debtor's secured debts are thus above the debt limit, and she is ineligible to be a debtor in chapter 13.

(2) Certificate of credit counseling

11 U.S.C. 109(h) provides in relevant part

... an individual may not be a debtor under this title unless such individual has, during the 180-day period ending on the date of filing of the petition, received ... credit counseling 11 U.S.C. 109(h)(1) (emphasis added).

Debtor's Certificate of Credit Counseling (dkt. 30) shows that she received credit counseling on September 17, 2019, thirteen (13) days after

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CONT... **Sharyl Gwen Bloom**

Chapter 13

filing her petition. Debtor did not receive credit counseling prior to filing for bankruptcy, and is therefore not eligible to be a debtor in bankruptcy.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sharyl Gwen Bloom

Pro Se

Movant(s):

Royalty Equity Lending, LLC

Represented By
David Jacob

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-20652 Carolyn Marjorie Maggio

Chapter 13

#3.00 Hrg re: Motion to Appoint Guardian ad
Litem for Debtor Under FRBP 1004.1

Docket 14

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carolyn Marjorie Maggio

Represented By
Chris A Mullen

Movant(s):

Carolyn Marjorie Maggio

Represented By
Chris A Mullen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-13724 Lorena Burlett

Chapter 13

#4.00 **[CASE DISMISSED on 10/17/19]**

Hrg re: Motion for Authority to Sell or Refinance
Real Property under LBR 3015-1 (Ch 13)

Docket 28

*** VACATED *** REASON: Case dismissed on 10/17/19 (dkt. 37)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lorena Burlett

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Lorena Burlett

Represented By
Stephen S Smyth
William J Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-12322 Tammy Javonillo-Zimmerman

Chapter 13

#5.00 Hrg re: Motion for fine and/or disgorgement of fees against bankruptcy petition preparer Vanessa Watson and Bizie Ladie, Inc.

Docket 37

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Order Granting UST's 110 Motion for Fines and Disgorgement (dkt. 22) (the "Prior Order").

Reasons: The tentative ruling is to grant the relief requested for the reasons stated in the motion, except to note that the Prior Order was entered on 6/13/19 (and not 10/25/17 as stated in the motion).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tammy Javonillo-Zimmerman

Represented By
Thomas B Ure

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CONT... Tammy Javonillo-Zimmerman

Chapter 13

Movant(s):

United States Trustee (LA)

Represented By
Ron Maroko

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:19-16238 Marvin E Medina and Blanca F. Medina

Chapter 13

#6.00 Hrg re: Debtor's Omnibus motion for
an order disallowing duplicate claims
#32 - Eternal Valley Memorial Park
#33 - Eternal Valley Memorial Park

Docket 35

Tentative Ruling:

Grant as set forth below and disallow Claims 32 and 33 in full as duplicates of Claim 34. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons: The tentative ruling is that debtors' proof of service does not reflect service of the court-mandated form F 3007-1.1.NOTICE.OBJ.CLAIM on Eternal Valley Memorial Park ("Claimant") as required by Local Bankruptcy Rule ("LBR") 3007-1(b)(3), but that such failure is harmless because debtors' notice of motion and motion (dkt. 35) contains the requisite information set forth in LBR 3007-1(b)(3)(A) & (B), the attached proof of service reflects that Claimant was served with that document and, as of the preparation of this tentative ruling no opposition is on file. Debtors' counsel is cautioned that failure to comply with applicable rules in future may result in denial of the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Marvin E Medina and Blanca F. Medina

Chapter 13

Debtor(s):

Marvin E Medina

Represented By
Giovanni Orantes

Joint Debtor(s):

Blanca F. Medina

Represented By
Giovanni Orantes

Movant(s):

Marvin E Medina

Represented By
Giovanni Orantes
Giovanni Orantes

Blanca F. Medina

Represented By
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16238 **Marvin E Medina and Blanca F. Medina**

Chapter 13

- #7.00 Cont'd hrg re: Debtors omnibus motion to disallow claims of:
- 1) Claim No. 11 filed by May & Sac
 - 2) Claim No. 21 filed by LVNV Funding, LLC
 - 3) Claim No. 22 filed by LVNV Funding, LLC
 - 4) Claim No. 25 filed by LVNV Funding, LLC
 - 5) Claim No. 26 filed by Flowercargo SA
- fr. 9/19/19

Docket 29

*** VACATED *** REASON: Withdrawal of Mtn. filed 9/25/19

Tentative Ruling:

Party Information

Debtor(s):

Marvin E Medina

Represented By
Giovanni Orantes

Joint Debtor(s):

Blanca F. Medina

Represented By
Giovanni Orantes

Movant(s):

Marvin E Medina

Represented By
Giovanni Orantes
Giovanni Orantes

Blanca F. Medina

Represented By
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes
Giovanni Orantes

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:16-24755 Gloria Elisa Galvan

Chapter 13

#8.00 Hrg re: Trustee's Motion for Allowance
of Administrative Expense Request

Docket 214

*** VACATED *** REASON: Continue to October 29, 2019 at 9:00 a.m.
[dkt. 220]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:16-24755 Gloria Elisa Galvan

Chapter 13

#9.00 Cont'd hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order; (A) Authorizing Private Sale of Intellectual Property Assets Outside the Ordinary Course of Business Free and Clear of All Claims, Liens, Encumbrances, and Interests; (B) For Determination of Good Faith Purchaser Under Section 363(m); (C) Approving Assignment of Intellectual Property; and (D) Waiving Fourteen Day Stay Under Rule 6004(h)
fr. 08/20/19, 9/19/19

Docket 191

*** VACATED *** REASON: Continue to October 29, 2019 at 9:00 a.m.
[dkt. 220]

Tentative Ruling:

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:16-24753 Antoinette Elisa Galvan

Chapter 7

#10.00 Hrg re: Trustee's Motion for Disallowance of Debtor's Tools of the Trade Exemption Under CCP Section 703.140(b)(6)

Docket 169

*** VACATED *** REASON: Continue to October 29, 2019 at 9:00 a.m. [dkt. 179]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark

Trustee(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

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8:30 AM

2:16-24753 Antoinette Elisa Galvan

Chapter 7

#11.00 Hrg re: Motion to compel trustee to
abandon interest in property of estate

Docket 171

*** VACATED *** REASON: Continue to October 29, 2019 at 9:00 a.m.
[dkt. 179]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark

Movant(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark
Michael E Clark
Michael E Clark
Michael E Clark

Trustee(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

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2:16-24753 Antoinette Elisa Galvan

Chapter 7

#12.00 Con't hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order: (A) Authorizing Private Sale of Intellectual Property Assets Outside the Ordinary Course of Business Free and Clear of All Claims, Liens, Encumbrances, and Interests; (B) For Determination of Good Faith Purchaser Under Section 363(m); (C) Approving Assignment of Intellectual Property; and (D) Waiving Fourteen Day Stay Under Rule 6004(h)
fr. 08/20/19, 9/19/19

Docket 154

*** VACATED *** REASON: Continue to October 29, 2019 at 9:00 a.m.
[dkt. 179]

Tentative Ruling:

Party Information

Debtor(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

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2:18-16458 Joseph Salazar

Chapter 13

#13.00 Order to show cause why debtor's motion for voluntary dismissal contains factual assertions contrary to the record

Docket 61

Tentative Ruling:

Appearances are not required. The Court has reviewed the declarations of Patricia Rodriguez and Eric Rasmussen (dkt. 65) in response to this Court's Order to Show Cause ("OSC") (dkt. 61). The tentative ruling is to discharge the OSC. The Court will prepare the order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joseph Salazar

Represented By
Patricia Rodriguez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-16965 Nelson Enrique Gomez

Chapter 13

#14.00 Cont'd hrg re: Debtor's Motion For Intentional Violation of the Automatic Stay Against Westrux International, Inc.; Request for Sanctions; Request for Attorney's Fees; Request for Compensatory and Punitive Damages fr. 9/19/19

Docket 40

Tentative Ruling:

Tentative Ruling for 10/24/19:

Grant in part and deny in part as set forth below. Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing if this tentative ruling is contested. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Declaration of Debtor's Attorney (dkt. 65), Declaration of Debtor (dkt. 66), Declaration of Jose A. Gomez in Support of Debtor's Truck Rental Expenses ("Brother's Declaration," dkt. 67), Westrux International, Inc. ("Westrux") Response ("Westrux Opposition," dkt. 68); Debtor's Reply (dkt.69).

Reasons:

(1) Attorney fees

The tentative ruling is to allow Debtor's attorneys, the Law Offices of Carmel Hehr, **\$11,160.00 in fees** and \$0 in costs. If Westrux contests this tentative ruling, forcing Debtor's attorney to appear at the hearing, then the tentative ruling is to allow the additional estimated 1.5 hours or \$675.00 for appearance at the hearing.

Westrux objects to Debtor's attorney fees on the following grounds: (a) Westrux objects to work completed by any "legal assistant," (b) Westrux objects to work regarding Ally Financial, and (c) Westrux objects that the

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proper rate is \$350/hour, not the \$450/hour charged. See dkt. 68, p.4-5. But, (a) the daily time records show "nc" (no charge) for work completed by legal assistants (dkt. 65, pp.13-15), (b) in the narrative portion of her declaration, Ms. Hehr details how the discussions with Ally Financial were relevant to the Westrux stay violation (see dkt. 65, p.2:16-27), and (c) \$450/hr. is well within the range of appropriate billing rates; it is no different from what counsel is charging Debtor and the bankruptcy estate (dkt. 14, p.6); and this Court is fully satisfied that it is an appropriate rate, based on the high quality of the written work and oral arguments presented, the efficiency reflected in the relatively modest amounts of time on complex issues, and the other factors commonly considered in awarding fees. See *generally* 11 U.S.C. 330(a)(3). While Westrux cites to an alleged docket entry in a matter before the Court of Appeals for the Ninth Circuit for its proposition that \$350/hour is the "ordered" reasonable rate (dkt. 68, p.5), Westrux has failed to explain why an order in one matter is binding on all fee applications or requests in other matters, and Westrux did not provide a copy of that document to this Court as required by Local Bankruptcy Rule ("LBR") 9013-2(b) which provides in relevant part:

If a party cites an unpublished judicial opinion, order, judgment, or other written disposition, the party must file and serve a copy of that opinion, order, judgment, or disposition with the brief or other document in which it is cited. [LBR 9013-2(b)(4) (emphasis added)].

(2) Rental truck expenses

The tentative ruling is to allow **\$1,800.00** for the rental truck expenses incurred by Debtor, and disallow \$600.00.

Westrux objects to Debtors rental truck expenses on the following grounds: (a) Westrux asserts that it is not properly charged with truck payments made prior to or in June 2019 because Debtor's bankruptcy petition was filed on June 14, 2019 and it was not informed of the bankruptcy filing until June 27, 2019, and (b) Westrux asserts that more evidence is required, beyond Debtor's financial records and his and his brother's declarations, to prove that Debtor paid \$600 per month for use of the replacement truck. See dkt. 68, p.1-3.

The tentative ruling is to sustain Westrux's first objection. Any violation of the automatic stay could not have caused prepetition expenses, because the automatic stay did not exist prepetition; nor could any damages have been caused by a "willful" violation of the stay before Westrux knew of the

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bankruptcy case. See *GoodyearTire & Rubber Co. v. Hager*, 137 S.Ct. 1178 (2017) (rejecting award of all attorney fees, including prior to when sanctionable conduct occurred).

The tentative ruling is to overrule Westrux's second objection. Both Debtor (dkt. 66) and his brother (dkt.67) have submitted declarations, under penalty of perjury, stating that Debtor was leasing the vehicle from his brother at \$600/month. This Court is satisfied that the declarations are sufficient evidence for purposes of establishing the truck rental costs.

(3) Vehicle registration

The tentative ruling is to **allow \$210.00** of the requested \$840.00 for the rental truck registration fees and disallow the remainder, although not on the specific grounds asserted by Westrux. Westrux argues that there is no copy of the registration (dkt. 68, p.1:28-p.2:1; p.3:26-27); but a copy of the registration has been provided with the Reply. Dkt.69, Ex.3. Nevertheless, both the registration and the corresponding financial records show that this payment occurred prior to the bankruptcy petition (dkt.69, Ex.3, *and* dkt. 66, Ex. A at PDF p.13, "Hino Regist."), so to the extent the registration expense is attributable to the period prior to June 27, 2019 this expense comes within Westrux' more general objection to being charged for expenses that were prepetition and before it knew of the bankruptcy filing. Thereafter, however, the tentative ruling is that it is appropriate to prorate the expense, because the evidence is that Debtor's agreement with his brother was to cover the registration expense during the time that Debtor had to use his brother's truck (dkt.67, p.2:3-6), which is approximately 3 months (July, August, September) or 1/4 of a year, and $\$840.00 \times 1/4 = \210.00 .

(4) Insurance

The tentative ruling is to allow the requested **\$635.88** for insurance. Westrux objects that Debtor has not provided proof of insurance (dkt. 68, p.3:22-24), but that has been provided in the Reply. Dkt.69, Ex.4; *and see also* dkt. 66, Ex. A at PDF p.25 (evidence of payment).

(5) Proposed setoff

Westrux argues that it is entitled to a \$9,000.00 setoff because it had to store Debtor's truck for nine months, and allegedly "[t]he standard cost to park a commercial truck in a locked facility in the Greater Los Angeles area is

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\$1,000 per month." Dkt.68, p.4:11-16. There is some appeal to this argument, but the tentative ruling is to reject it for several reasons.

First, there is no evidence to support the alleged "standard cost" of \$1,000 per month. That alone is fatal to this argument.

Second, there is no citation to any authority for setting off a prepetition claim against a postpetition sanction for violation of the automatic stay. In general, sanctions are within the bankruptcy court's "discretion" (*see, e.g., In re Bennett*, 298 F.3d 1059, 1069-70 (9th Cir. 2002)) and even if it were permissible to apply setoff (for which, again, no authority has been cited), the tentative ruling is that in the circumstances of this case that would not be appropriate. The evidence is that Debtor's earning ability depends on having a truck and Westrux' willful violation of the automatic stay jeopardized Debtor's earning ability and reduced or impaired his ability to pay all allowed claims of creditors. A setoff would enable Westrux to be paid ahead of other creditors, which is inappropriate.

Third, the claims bar date was 8/23/19 (dkt.4) and this Court's claims register does not include any claim filed by Westrux. Accordingly, there is nothing to set off.

For all of these reasons, the tentative ruling is to reject the proposed setoff of \$9,000.00.

(6) Other arguments

In addition to the foregoing, Westrux' arguments are rejected for the reasons stated in Debtor's papers. Among other things, Westrux' arguments regarding the merits of the violation of the automatic stay are raised too late: the violation has already been determined, and the current issue is solely what damages to award.

(7) Conclusion

The tentative ruling is to award damages to Debtor under 11 U.S.C. 362(k) in the total amount of **\$13,805.88** (\$11,160.00 attorney fees + \$1,800 truck rental + \$210.00 registration + \$635.88 insurance = \$13,805.88). The tentative ruling is to make such damages payable **within 21 days** after entry of the order adopting this tentative ruling, and to make the damages **payable to Debtor's attorney**, to apply against the attorney fee award and to hold the balance for disposition pursuant to the usual methods of applying funds in chapter 13 cases - *i.e.*, either to pay creditors under Debtor's confirmed 100%

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plan (see dkt.51) or, if permissible, to return to Debtor. Debtor's counsel is directed to coordinate with the Chapter 13 Trustee regarding the disposition of the funds.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/19/19:

Appearances required. There is no tentative ruling, except to sustain the evidentiary objections (dkt.54, 55) but the parties should be prepared to address the issues raised in the motion (dkt.40), opposition papers (dkt.53-55) and reply papers (dkt.59-60), including:

(1) whether Debtor should be deemed to have abandoned the vehicle (before having a change of heart) by not responding to demands for payment (see dkt.52, pp.2:11-3:10 and 4:14-6:19, and compare dkt.59, p.4:8-28);

(2) whether, even if there was no actual abandonment, Debtor gave the impression of abandonment, thus

(a) making any alleged violation of the (subsequent) automatic stay not "willful" because Westrux International, Inc. ("Westrux") reasonably believed that no stay applied to abandoned property (see *id.*), thereby precluding compensatory damages including attorney fees, and/or

(b) making any violation of the stay not malicious, oppressive, or undertaken with reckless disregard for Debtor's rights, thereby precluding any punitive damages (see dkt.52, p.7:19-28 and p.8:1-19), and

(c) making any subsequent change of heart by Debtor, and his demand for return of the vehicle, irrelevant unless and until there is a final ruling that there was not actually an abandonment, at which point Westrux would then know that the stay does apply so, from that point forward, it would have to turn over the vehicle (see dkt.59, pp.3:14-4:7 and p.5:1-28);

(3) whether Movant has no lien because it did not apply for authorization to conduct a lien sale or to file a court action within 45 days (30 + 15 days) after the work was completed (Cal. Civ. C. 3068(a)&(b)) (see

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dkt.59, pp.2:3-3:13), or if Westrux's attempts to contact Debtor and address the bill with him, and Debtor's lack of response, has any effect on that deadline (see dkt.52, pp.2:11-3:10 and 4:14-6:19); and

(4) whether Debtor can establish any damages (see dkt.52, pp.6:21-7:17).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Nelson Enrique Gomez

Represented By
Maria C Hehr

Movant(s):

Nelson Enrique Gomez

Represented By
Maria C Hehr
Maria C Hehr

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

2:19-12964 John Martin Kennedy

Chapter 13

#15.00 Cont'd hrg. re: Motion to Convert Case from Chapter 13
to 11 Under 11 U.S.C. Sections 706(a) or 1112(a)
fr. 05/16/19; 07/18/19, 9/19/19

Docket 23

*** VACATED *** REASON: Case dismissed 9/23/19 (dkt. 58)

Tentative Ruling:

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Movant(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

2:14-21119 Carlos Roberto Calderon and Rosalva Calderon

Chapter 13

#16.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments fr. 07/18/19, 8/15/19

Docket 98

Tentative Ruling:

Tentative Ruling for 10/24/19 (same as for 8/15/19 and 7/18/19):

Appearances required. There is no tentative ruling, but the Debtors should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 100).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carlos Roberto Calderon

Represented By
Tamar Terzian

Joint Debtor(s):

Rosalva Calderon

Represented By
James T King
Tamar Terzian

Movant(s):

Carlos Roberto Calderon

Represented By
Tamar Terzian
Tamar Terzian
Tamar Terzian

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

CONT... Carlos Roberto Calderon and Rosalva Calderon

Chapter 13

Rosalva Calderon

Represented By

James T King

James T King

Tamar Terzian

Tamar Terzian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

2:18-14940 Georgetta Lee Ciufo

Chapter 13

#17.00 Cont'd order to show cause why Synchrony and
Cir Law Firm should not be sanctioned for
violating the automatic stay and/or co-debtor
stay
fr. 4/18/19, 6/13/19; 07/18/19, 9/19/19

Docket 33

Tentative Ruling:

Tentative Ruling for 10/24/19:

The tentative ruling is to take this matter off calendar and award Debtor's Counsel fees (in addition to the prior award dkt.60) in the amount of **\$18,630.00**. Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents: Debtor's Counsel's supplemental declaration (dkt. 63), and the notice of non-opposition filed by Synchrony Bank ("Synchrony") and CIR Law Offices International, LLP ("CIR") (collectively "Creditors") (dkt. 69).

Calculations: (a) \$18,495 for fees incurred through 9/27/19 + (b) \$135 (0.3 hours) for time spend reading Creditors' non-opposition (dkt. 69), reading this tentative ruling, preparing an order reflecting this ruling, and handling the final disposition of this matter such as arranging for delivery and deposit of Creditors' payment(s).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

**United States Bankruptcy Court
Central District of California
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Thursday, October 24, 2019

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8:30 AM

CONT... Georgetta Lee Ciufo
appropriate for disposition at this hearing.

Chapter 13

**[PRIOR TENTATIVE RULINGS OMITTED (see dkt.51 & 60 for
memorialization and adoption of same)]**

Party Information

Debtor(s):

Georgetta Lee Ciufo

Represented By
Hale Andrew Antico

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

2:18-17617 Ericka A Reinke

Chapter 13

#18.00 Cont'd hrg re: Motion for Order to Either Compel U.S. Bank, N.A., dba USB Leasing LT, Respondent to: (1) Affirmatively Disposes Debtor of its Surrendered Collateral, Pursuant to the Order Confirming Debtor's Second Amended Plan; or, Alternatively, (2) To Effectively Order the Transfer of Title of the Destroyed Collateral to the Debtor so that She May Lawfully Dispose of it at a Metal Salvage Facility
fr. 05/16/19; 07/18/19

Docket 35

*** VACATED *** REASON: Notice of voluntary dismissal of motion (dkt. 49)

Tentative Ruling:

Party Information

Debtor(s):

Ericka A Reinke

Represented By
Todd J Roberts

Movant(s):

Ericka A Reinke

Represented By
Todd J Roberts

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, October 24, 2019

Hearing Room 1545

8:30 AM

2:19-12403 Rene Medina and Maria Medina

Chapter 13

#19.00 Hrg re: Motion to dismiss chapter 13 case

Docket 111

Tentative Ruling:

Grant the motion and dismiss Debtor's bankruptcy case, subject to any persuasive opposition at the hearing, for the reasons set forth below.
Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed: Motion to Dismiss filed by WVJP 2017-2, LP ("Movant") ("MTD," dkt. 11); Debtors' 5th Amended Plan ("Plan," dkt. 100), objections of Movant and WV SPE 2017-2A, LLC (collectively, "Creditors") to the Plan (dkt. 104, 105), Debtors' Amended Schedule I (dkt. 108), Debtors' responses to Creditors' objections (dkt. 109, 110), and Creditor's replies (dkt. 118, 119).

Reasons:

The tentative ruling is that there is cause under 11 U.S.C. 1307(c)(1) and (c)(5) to dismiss Debtors' bankruptcy case because (w) the Plan is not feasible on its face; (x) Debtors have not suggested any plausible way in which they can propose a feasible plan; (y) Debtors have repeatedly failed to propose a plan that provides for the allowed amount of secured Creditors' claims; and (z) the delay caused by Debtors is prejudicial to all creditors, who must bear all the usual expenses of nonperforming loans/unpaid debts.

(1) Legal Standard

11 U.S.C. 1307(c) provides in relevant part:

... on request of a party in interest or the United States trustee and after notice and a hearing, the court ... may dismiss a case under this chapter ... for cause, including -

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8:30 AM

CONT...

Rene Medina and Maria Medina

Chapter 13

(1) unreasonable delay by the debtor that is prejudicial to creditors ...; [or]

...

(5) denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or modification of a plan [11 U.S.C. 1307(c)(1)&(5)]

(2) Debtors' repeated failure to propose confirmable plans

Debtors have repeatedly failed to propose a plan that provides for interest payments to Creditors, who are oversecured. See, e.g., dkt. 118, p.4:6 and n.5. Debtors' first Chapter 13 plan was filed on 3/19/19. Dkt. 17. Debtors filed the sixth version of their Chapter 13 plan on 8/13/19. Dkt. 100. As Creditors explain in their objections to confirmation, the Plan does not provide for interest on Creditor's claim even though Creditor is oversecured. See, e.g., dkt. 105, p.3:3-4.

This has been a recurring theme. As set forth in the MTD, all six versions of Debtors' plan fail to provide properly for Movant's claim. Dkt. 111, p.3-4.

In their reply to Creditors' objections to confirmation, Debtors' purport to establish that Creditors are not oversecured. See, e.g., dkt. 110, p.6. Debtors' arguments are frivolous. See Replies (dkt.118, 119), *passim*.

(3) Plan feasibility

Debtors have not adequately supported their income and expenses to show that they could propose any feasible plan. Debtors' numbers fall short, and are implausible, unsupported, and internally inconsistent. See Replies (dkt.118, 119), *passim*.

In addition, even Debtors' information is woefully incomplete. Bankruptcy Schedule I, line 8a, instructs Debtors to "attach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." Debtors have failed to attach such a statement.

(4) Conclusion

For all of the foregoing reasons, dismissal is appropriate.

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Central District of California
Los Angeles
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Thursday, October 24, 2019

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8:30 AM

CONT... **Rene Medina and Maria Medina**

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, October 24, 2019

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, October 24, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter 0

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

9:00 AM

2:16-24755 Gloria Elisa Galvan

Chapter 13

#1.00 Cont'd hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order; (A) Authorizing Private Sale of Intellectual Property Assets Outside the Ordinary Course of Business Free and Clear of All Claims, Liens, Encumbrances, and Interests; (B) For Determination of Good Faith Purchaser Under Section 363(m); (C) Approving Assignment of Intellectual Property; and (D) Waiving Fourteen Day Stay Under Rule 6004(h)
fr. 08/20/19, 9/19/19, 10/24/19

Docket 191

Tentative Ruling:

Revised Tentative Ruling for 10/29/19:

Please see the tentative ruling in the companion case of Antionette Galvan (calendar no. 3, 10/29/19 at 9:00 a.m.)

Tentative Ruling for 10/29/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/19/19:

Please see the tentative ruling in the companion case of Antionette Galvan (calendar no. 18, 9/19/19 at 11:00 a.m.)

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 29, 2019

Hearing Room 1545

9:00 AM

CONT... Gloria Elisa Galvan

Ashleigh A Danker

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

9:00 AM

2:16-24755 Gloria Elisa Galvan

Chapter 13

#2.00 Cont'd hrg re: Trustee's Motion for Allowance
of Administrative Expense Request
fr. 10/24/19

Docket 214

Tentative Ruling:

Revised Tentative Ruling for 10/29/19:

The tentative ruling is (1) to allow Dinsmore & Shohl, LLP \$30,265.50 in fees and \$343.38 in expenses, for a total of \$30,608.88, plus any additional amounts allowed in future regarding sale of the Assets (as defined in the motion papers) as an administrative expense of Ann's Estate against Gloria's estate; and, if necessary, (2) to set an evidentiary hearing to determine whether or not 100% of the postpetition income from the Assets (as defined in the motion papers) belongs to Ann's estate. Appearances required.

Proposed order: Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Analysis:

(1) Legal standards for allowance of administrative expenses

The parties appear to agree on the legal standards for allowance of the administrative expense reimbursement sought by Trustee, in his dual capacity as chapter 7 trustee for Ann's estate and authorized agent for the Chapter 13 Trustee in Gloria's estate with respect to the matters at issue: this Court "shall" allow as administrative expenses any "actual, necessary costs and expenses of preserving the estate" (11 U.S.C. 503(b)(1)(A)&(b)(2), emphasis added), including but not limited to "reasonable compensation for actual, necessary services rendered by the trustee ... or any person employed by [the trustee]," as well as "reimbursement for actual, necessary expenses." 11 U.S.C. 330(a)(1) (emphasis added). In assessing reasonable compensation for services, this Court shall take into consideration "the nature, the extent, and the value of such services, taking into account all relevant factors, including - (A) the time spent ...; (B) the rates charged ...; (C) whether the services were necessary to the administration of, or beneficial at the time at

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9:00 AM

CONT...

Gloria Elisa Galvan

Chapter 13

which the service was rendered toward the completion of, [the bankruptcy] case ...; (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than [bankruptcy] cases" 11 U.S.C. 330(a)(3) (emphasis added).

(2) Application of the legal standards for administrative expenses to the facts

Putting aside the parties' invective, this Court's tentative ruling is that Trustee's incurrence of the fees and expenses at issue satisfies the foregoing legal standards for an administrative claim as against Gloria's bankruptcy estate for 1/2 of the services rendered. Trustee had more than sufficient reasons to believe that the sale of the Assets (as defined in the parties' papers) was well worth the anticipated costs of administration, given (a) the prepetition income apparently derived from the Assets (especially because of Debtor's changing statement about what is annual income and what were receivables), (b) Debtors' somewhat unclear testimony regarding the ownership of the Assets and any income derived from them, (c) Debtors' changing exemptions, and (d) the other facts and circumstances of these cases.

Whether the administrative expenses in Ann's bankruptcy case will or will not be allowed, and in what dollar amount, is an issue for another day. See the tentative ruling for calendar no. 5 (10/29/19 at 9:00 a.m.).

(3) Dollar amounts of administrative expenses

As for the mathematical calculations, the fee application (dkt. 214) requests two different figures - \$30,944.50 (p.1:19) and \$30,848.87 (p.2:15). Both of these figures are listed as "representing one-half of the attorney's fees and costs incurred by Trustee Mastan selling the Assets." Dkt. 214 at p.1:19 & p.2:15. But the attached billing records provide that \$60,531.00 in fees and \$686.75 in expenses have been incurred, for a total of \$61,217.75. Dkt. 214, Ex. 3. One-half of that figure is \$30,608.88.

Trustee is directed to address whether the above tentative ruling reflects the correct figures.

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9:00 AM

CONT... Gloria Elisa Galvan

Chapter 13

(4) Which estate(s) are entitled to postpetition income from the Assets

The tentative ruling is that there are credibility issues, and other factual issues such as who actually worked on deriving income from the Assets and what agreement or arrangement Debtors actually had between them as to who would receive such income. The tentative ruling is that such issues cannot be determined on the existing record, and probably would require an evidentiary hearing to resolve, although, given the relatively small dollar amounts at stake, the evidentiary hearing probably would have to be very short. The parties are directed to address those issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Gloria Elisa Galvan

Represented By
Michael E Clark
Nancy B Clark
Barry E Borowitz

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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CONT...

Gloria Elisa Galvan

Chapter 13

**United States Bankruptcy Court
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Tuesday, October 29, 2019

Hearing Room 1545

9:00 AM

2:16-24753 Antoinette Elisa Galvan

Chapter 7

- #3.00 Con't hrg re: Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f) Notice of Motion and Motion for Order: (A) Authorizing Private Sale of Intellectual Property Assets Outside the Ordinary Course of Business Free and Clear of All Claims, Liens, Encumbrances, and Interests; (B) For Determination of Good Faith Purchaser Under Section 363(m); (C) Approving Assignment of Intellectual Property; and (D) Waiving Fourteen Day Stay Under Rule 6004(h)
fr. 08/20/19, 9/19/19, 10/24/19

Docket 154

Tentative Ruling:

Revised Tentative Ruling for 10/29/19:

Grant Trustee's section 363 sale motion. Appearances required.

Proposed order: Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/19/19:

Continue the motion to 10/24/19 at 8:30 a.m., to be heard concurrently with the Trustee's contemplated objection to Ann's claim of exemption in "tools of the trade," unless that matter is mooted by an increase in the bid price.
Appearances required.

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Hearing Room 1545

9:00 AM

CONT... Antoinette Elisa Galvan

Chapter 7

Analysis:

This motion to sell assets under 11 U.S.C. 363(b) and (f)(2) and (f)(4) is brought by the Chapter 7 Trustee (the "Trustee") of the estate of Antoinette Elisa Galvan ("Ann," Case No. 2:16-bk-24753-NB). The Trustee is also acting, for these purposes, on behalf of the chapter 13 estate of Ann's twin sister Gloria Galvan ("Gloria," Case No. 2:16-bk-24755-NB) (see GloriaDkt. 65, 76). The Trustee has filed the sale motion in both cases. AnnDkt.154, 163; GloriaDkt.191, 207.

(1) Background

Prepetition Ann and Gloria operated an online images business (the "Business"), which included selling T-shirts relating to breast cancer emblazoned with the slogan, "Fight Like A Girl." The business was operated through the sisters' entity, Hope Inspired Creations, LLC (referred to herein as "Creations," and referred to by the Trustee as "HIC").

Competitor TSDC, LLC ("TSDC") sued the sisters for trademark infringement and other claims. There was a 2018 settlement but the parties had protracted disputes about whether it had been breached. See GloriaDkt.205, Ex.2, p.1 (last para.) & p.2 (Recital 2).

Eventually the sisters removed various images of their products from their online sales websites and, on November 1, 2016 they dissolved Creations. The parties disagree whether (a) Ann is now the sole owner of the Business and/or its assets or (b) each sister owns 50%.

The Trustee argues that both Ann and Gloria testified under oath, at their respective meetings of creditors (11 U.S.C. 341(a)), that the Business was transferred to Ann. The sisters apparently take the position that the Trustee misunderstands, and that Ann only received 100% of the post-dissolution revenues (allegedly because Ann was running the business while Gloria was too busy to do so as a paralegal) and the ownership of the business and/or its assets (collectively, the "Business") was divided 50% to Gloria and 50% to Ann. See AnnDkt.168, pp.2:12-3:28 (Trustee's Reply, quoting 341(a) testimony) *and compare* AnnDkt..165 (Ann's Opposition).

In any event, a few days after dissolving Creations, on November 7, 2016 Ann and Gloria each filed a voluntary chapter 7 bankruptcy petition. Gloria's bankruptcy case was converted to chapter 13 on January 26, 2017, after the United States Trustee ("UST") objected that undisclosed income violated the "means test." See AnnDkt.168, p.5:6-11 (citing GloriaDkt.15, 23).

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CONT...

Antoinette Elisa Galvan

Chapter 7

Just recently, on 9/13/19, this Court issued an order (GloriaDkt.212) approving a settlement agreement between both sisters and TSDC (the "Settlement," GloriaDkt.205, Ex.2). The Settlement provides (among other things) that the sisters will cease using the phrase "Fight Like A Girl" or any similar phrase in the marketing or sale of any goods worldwide, but that nothing in the settlement agreement shall prevent them from "receiving the proceeds or being credited with the sale of any of [their] designs by the Chapter 7 or Chapter 13 trustees," provided that if their "designs are returned to [them], the designs shall be destroyed" GloriaDkt.205, Ex.2, p.3, para.3(h) & 5.

Meanwhile TSDC has reached an agreement with the Trustee to purchase all intellectual property and all social media accounts, websites, and related assets of the Business (the "Assets") from Ann's bankruptcy estate for \$45,000. AnnDkt.163, Ex.1. Ann and Gloria have each filed objections (AnnDkt.165, GloriaDkt.209).

(2) The sisters' objections

Both sisters argue that the Settlement "relates only to 'Fight Like A Girl' trademarks" and "TSDC is attempting to purchase not only items related to 'Fight Like A Girl' but every design that [Gloria] and [Ann] have ever created." AnnDkt.165, p.4:3-12. According to the sisters, the "Fight Like A Girl" assets "only generated approximately 7% of the overall revenue" of the Business. GloriaDkt.209, p.4:22-27, AnnDkt.165, p.4:8-10. They assert that they still have rights in, and have exempted, the non-Settlement portion of the Assets.

The next step in the sisters' argument is that a bankruptcy trustee "may not sell the [Assets] for less than the amount exempted" by a debtor, citing *In re Clark*, 266 B.R. 163, 172 (9th Cir. BAP 2001). GloriaDkt.165, p.4:22-24. See also AnnDkt.209, p.4:15-27.

Note: The sisters do not dispute that, if the proceeds of the sale to be received by their respective bankruptcy estates were to exceed their respective exemptions, then the sale could be approved. See, e.g., *In re Reilly*, 130 S.Ct. 2652, 2657 (2010) (estate can "recover value in the asset beyond the dollar value the debtor expressly declares as exempt"); *In re Gebhart*, 621 F.3d 1206, 1211 (9th Cir. 2010) (estate can sell property that is fully covered by exemption as of petition date, to obtain postpetition appreciation for benefit of estate); *In re Fuentes*, 687 Fed. Appx.

**United States Bankruptcy Court
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Tuesday, October 29, 2019

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9:00 AM

CONT...

Antoinette Elisa Galvan

Chapter 7

542, 544 (9th Cir. 2017) (exemption is not absolute right to property itself, "[r]ather, it is a debtor's right to retain a certain sum of money when the court orders sale of [the property in which the exemption is claimed]") (internal quotations and citation omitted).

The sisters then calculate that, "[a]ll together, the \$45,000.00 offer by TSDC and the \$7,952.23 from monthly sales collected to date by the Trustee total \$52,952.23, of which the estates of [Gloria] and [Ann] are entitled to 50% each, or \$26,476.11." GloriaDkt.209, pp.3:24-4:1; AnnDkt.165,p.4:14-18. The sisters assert that Ann's exemptions equal or exceed this \$26,476.11, so under *Clark* the Assets may not be sold.

Note: The sisters' inclusion of the \$7,952.23 in receipts held by the Trustee appears to be an acknowledgment that (a) their claimed exemptions cover both the Assets proposed to be sold to TSDC and those receipts held by the Trustee so (b) in determining whether the proposed sale will result in any net proceeds for the estate, the \$7,952.23 must be deducted.

Note: It is not entirely clear if the sisters are making the same argument with respect to Gloria's exemptions. Gloria argues (GloriaDkt.209,pp.5:-6:5) that the Assets cannot be sold because Ann's exemptions (in the 50% of the Assets that Ann claims) equal or exceed 50% of the proposed purchase price of the Assets, so there is no equity for Ann's estate. But in her conclusion Gloria appears to argue (GloriaDkt.209, p.6:7-14) that there will not be sufficient proceeds from the sale to pay her own exemptions, so the sale motion must be denied.

(3) The Trustee's reply

The Trustee argues that, in connection with the prepetition dissolution of Creations (aka HIC), the Business was transferred solely to Ann. The Trustee cites both Ann's and Gloria's 341(a) testimony. The Trustee then argues that Ann's exemptions are less than the sale price so the Assets can be sold.

The Trustee argues in the alternative that the Trustee plans to object to Ann's purported "tools of the trade" exemption in the intellectual property included in the Assets. See AnnDkt.168, pp.11:8-13:9. The Trustee argues that this will reduce "the amount owed to Ann on account of her exemptions to \$23,758.00, which is less than the amount Ann's estate would be entitled to

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Chapter 7

\$26,514.25, even if Gloria's Estate were able to prove its claim to 50% of the Assets. AnnDkt.268, p.13:2-9 (emphasis in original).

Alternatively, the Trustee argues that Ann and Gloria engaged in various misconduct:

(a) Sabotaging the value of the Assets: The sisters purportedly hid the online images of the Business's goods which "deliberately sabotaged" the value of the Assets in an attempt to persuade the Trustee to abandon the Assets to Ann (Ann dkt.168, pp.4:1-5:4 and p.10:26).

(b) Ann hiding income: Ann allegedly "had been improperly retaining postpetition income from the Assets that had trickled into some of her bank accounts despite the Sisters' efforts to 'hide' most of the online images," (*id.*, p.9:17-22).

(c) Gloria hiding income: Gloria allegedly intentionally omitted her "highly compensated" employment from her "means test" in an attempt to qualify for chapter 7 (*id.*, p.5:6-11).

The Trustee appears to be arguing that the sisters should be estopped to assert that Gloria owns 50% of the Business. Alternatively, the Trustee may be asserting that there is some basis for surcharging the claimed exemptions.

(4) Good or bad faith

The Trustee seeks a "good faith" finding under 11 U.S.C. 363(m). The sisters argue that TSDC is acting in bad faith because it has provided "misleading information about [Gloria and Ann] and [Creations]" in an attempt to "obfuscate the value of the [Assets]" and, perhaps as a result, the Trustee did not actively manage the Assets to generate substantial income. AnnDkt.165, pp.5:25-6:20.

(5) Analysis

(a) Standing

This Court has an independent duty to examine standing. Gloria, as a chapter 13 debtor, ordinarily would have, "exclusive of the [chapter 13 trustee], the rights and powers of a trustee under sections 363(b) ... [and] 363(f)" 11 U.S.C. 1303 (emphasis added). But notice of the motion to approve the stipulation allowing the Trustee to manage the Business, and the hearing thereon, was served on Gloria (GloriaDkt.67, 68). Therefore the tentative ruling is that the Trustee has standing to bring the Motion, even if

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Gloria's bankruptcy estate has a 50% interest in the Business.

(b) Whether Gloria's bankruptcy estate has a 50% interest in the Business and/or its assets

The tentative ruling is that the Trustee has not established a sufficient basis to estop the sisters from asserting that each of them owns a 50% interest in the Business (including the Assets proposed to be sold). The Trustee's own summary of the sisters' bankruptcy schedules shows that they have consistently asserted that 50% ownership interest. See GloriaDkt.211, p.5:15-9:16. The Trustee's excerpts from their 341(a) testimony is consistent with assigning 100% of the revenues/profits of the Business to Ann, because she was running the business while Gloria was focusing on her paralegal employment, and each sister retained a 50% ownership interest in the underlying Business. See AnnDkt.168, pp.2:12-3:28 (Trustee's Reply, quoting 341(a) testimony). That is not the only possible reading of the testimony, and it may have been somewhat misleading, but for purposes of this sale motion it is not enough to establish that Ann owns 100% of the Business (and therefore 100% of Assets - what is proposed to be sold).

(c) Calculations

Based on the foregoing, the tentative ruling is that the Trustee must establish that each Debtor has less than \$26,514.25 in allowable exemptions, or alternatively the sale price would have to be increased. The two sets of exemptions are examined separately.

Ann's current (2/28/18) relevant exemptions (summarized AnnDkt.168, p.8:11-16) appear to be as follows:

\$23,758.00 50% interest in the Business and/or its assets
\$ 8,000.00 "tools of trade"
\$31,758.00

Gloria's current (April and June 2017) relevant exemptions (summarized dkt.168, p.8:11-16) appear to be as follows:

\$ 8,000.00 14 registered copyrights
\$ 300.00 50% interest in 3 licensed images from 3d parties
\$ 1,250.00 50% of 23 internet domains
\$ 0.00 dormant online stores
\$ 8,000.00 "tools of trade," 50% of ribbon design business

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 \$17,550.00

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Based on these dollar amounts, the tentative ruling is that *Clark* does not affect the Trustee's ability to sell the 50% interest in the Assets (apparently) held by Gloria's bankruptcy estate, but *Clark* prevents the Trustee from selling the 50% interest in the Assets (apparently) held by Ann's bankruptcy estate, unless (a) the Trustee prevails in the contemplated objection to Ann's "tools of the trade" exemption and/or (b) the bid is increased enough to moot Ann's objection.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark

Movant(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

Trustee(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

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2:16-24753 Antoinette Elisa Galvan

Chapter 7

#4.00 Cont'd hrg re: Trustee's Motion for Disallowance of Debtor's Tools of the Trade Exemption Under CCP Section 703.140(b)(6) fr. 10/24/19

Docket 169

Tentative Ruling:

Revised Tentative Ruling for 10/29/19:

Sustain the objection to Debtor Ann's tools of the trade exemption (dkt.169).
Appearances required.

Proposed order: Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark

Trustee(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie

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Ashleigh A Danker

Chapter 7

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9:00 AM

2:16-24753 Antoinette Elisa Galvan

Chapter 7

#5.00 Cont'd hrg re: Motion to compel trustee to
abandon interest in property of estate
fr. 10/24/19

Docket 171

Tentative Ruling:

Revised Tentative Ruling for 10/29/19:

Deny Debtor Ann's abandonment motion (dkt.171). Appearances required.

Proposed order: Trustee Mastan is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Analysis:

Debtor asserts that "[e]ven in the event that the Trustee [were] to prevail on his Objection to Debtor's [t]ools of the trade exemption" -- which is this Court's tentative ruling (see calendar no. 4, 10/29/19 at 9:00 a.m.) -- nevertheless "after accounting for the Trustee's significant administrative fees the estate is administratively insolvent and would not pay anything to creditors." Abandonment Motion (dkt.171), p.6:17-21. The tentative ruling is that this argument is not persuasive for two alternative reasons:

(1) For purposes of abandonment under 11 U.S.C. 554, the issue under the plain words of the statute is not whether property is of no or inconsequential value and benefit to creditors, but rather whether the property is "burdensome" or of inconsequential value and benefit "to the estate" (*id.*, emphasis added). The estate will receive net funds (if this Court disallows the tools of the trade exemption) so the statutory predicates for abandonment are not met.

(2) Alternatively, if it were necessary for creditors to benefit (which it is not), that could be accomplished by reducing the administrative claims. But the allowed amount of such claims is an issue for another day, and is the subject of different approaches by the courts. See, e.g., *In re Ruiz*, 541 B.R. 892 (9th Cir. BAP 2015).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 10/29/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark

Movant(s):

Antoinette Elisa Galvan

Represented By
Michael E Clark
Michael E Clark
Michael E Clark
Michael E Clark

Trustee(s):

Peter J Mastan (TR)

Represented By
Christopher Celentino
Peter W Bowie
Ashleigh A Danker

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10:00 AM

2:17-11241 Thien Thanh Phan and AI Thu Bui

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

CALIFORNIA COAST CREDIT UNION
vs
DEBTOR

Docket 64

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 68).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Thien Thanh Phan

Represented By
Tina H Trinh

Joint Debtor(s):

AI Thu Bui

Represented By
Tina H Trinh

Movant(s):

California Coast Credit Union, its

Represented By
Reilly D Wilkinson

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Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:17-11241 **Thien Thanh Phan and AI Thu Bui**

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

CALIFORNIA COAST CREDIT UNION
vs
DEBTOR

Docket 65

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 69).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Thien Thanh Phan

Represented By
Tina H Trinh

Joint Debtor(s):

AI Thu Bui

Represented By
Tina H Trinh

Movant(s):

California Coast Credit Union, its

Represented By
Reilly D Wilkinson

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Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:17-22059 Courtney Anne Rogers

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 39

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 41).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Courtney Anne Rogers

Represented By
Barry E Borowitz

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-17643 Judith Gonzalez

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 44

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Judith Gonzalez

Chapter 13

Party Information

Debtor(s):

Judith Gonzalez

Represented By
David Lozano

Movant(s):

Deutsche Bank National Trust

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-18736 Raju Maity

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 88

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raju Maity

Represented By
Sanaz S Bereliani

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:18-23757 Brenda Kay Turner

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

CALIFORNIA PUBLIC EMPLOYEES
RETIREMENT SYSTEM
vs
DEBTOR

Docket 26

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 28).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Brenda Kay Turner

Represented By
Barry E Borowitz

Movant(s):

CALIFORNIA PUBLIC

Represented By
Arnold L Graff
Gilbert R Yabes

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:18-24615 Maricela Correa Contreras

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 33

***** VACATED *** REASON: Cont. to 12/17/19 @10am per stip. (dkt. 40)
and order thereon.**

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maricela Correa Contreras

Represented By
Sunita N Sood

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-13828 Lizeth Lozano

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

DITECH FINANCIAL LLC
vs
DEBTOR

Docket 22

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Lizeth Lozano

Represented By
Julie J Villalobos

Movant(s):

Ditech Financial LLC

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-16626 Wanda Michelle Bates

Chapter 13

#9.00 ***[CASE DISMISSED on 10/17/19]***

Hrg re: Motion for relief from stay [RP]

WINDSOR PARK ASSET HOLDING TRUST
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (2:18-bk-22533-WB) was dismissed (on 5/3/19) within one year before this case was filed (on 6/5/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

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CONT...

Wanda Michelle Bates

Chapter 13

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Attorney fees

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CONT...

Wanda Michelle Bates

Chapter 13

As for Movant's request for attorney fees, the tentative ruling is that any attorney fees may be added to the debt in accordance with the terms of the parties' contractual obligations. The reasonableness of such fees is not properly before this Court, so this Court expresses no opinion on that issue.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Wanda Michelle Bates

Pro Se

Movant(s):

Windsor Park Asset Holding Trust

Represented By
Arnold L Graff
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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10:00 AM

2:19-20940 Rubye Jean Washington

Chapter 13

#10.00 ***[CASE DISMISSED on 10/17/19]***

Hrg re: Motion for relief from stay [RP]

REVERSE MORTGAGE FUNDING LLC
vs
DEBTOR

Docket 11

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

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CONT...

Rubye Jean Washington

Chapter 13

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Rubye Jean Washington

Chapter 13

Debtor(s):

Rubye Jean Washington

Pro Se

Movant(s):

Reverse Mortgage Funding LLC

Represented By
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

10:00 AM

2:19-20946 Claudia C Flores

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

NORTHEAST BANK
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant in part and deny in part as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does apply

Deny the request for an order confirming that no stay is in effect. Although there is certainly evidence that Debtor's purported lien on the subject property probably is a fraud, nevertheless it is possible that the bankruptcy estate really does have a lien - the documentation establishes at least some basis for this bankruptcy estate to assert a claim of an interest in the property (see dkt. 18, PDF p. 267), and the automatic stay protects that claim. Nor has Movant established that there is any exception to, or termination of, the automatic stay under 11 U.S.C. 362(b) or (c).

But the tentative ruling is that various forms of relief from the automatic stay are appropriate, as set forth below.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal

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CONT...

Claudia C Flores

Chapter 13

analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this may be a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

Request for relief in pending and past cases

The motion "requests a declaration that the 'in rem' relief from stay is applicable to all past and concurrent bankruptcy cases filed affecting the

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CONT...

Claudia C Flores

Chapter 13

Property." Dkt.18, p.16:21-22. On extremely rare occasions, this Court has been prepared to grant such relief, but this case does not appear appropriate for such relief. See generally *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

First, Movant has not cited any authority, or set forth any factual and legal analysis, supporting such relief.

Second, the tentative ruling is that procedurally the requested relief has not been properly presented. Movant would have to file an adversary proceeding seeking declaratory relief.

Third, the factual record does not appear to support such relief. The tentative ruling is that Movant has not described so much evidence of sham transfers of interests in the subject property that it would be appropriate for this Court to declare that, even in the face of documentation purporting to show that past or pending bankruptcy cases had a interest in the property, those interests must be fictional. Absent such evidence, it would be inappropriate to grant declaratory relief that no automatic stay applied in cases pending before other Judges, with other debtors and creditors who have received no notice of the requested relief.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Claudia C Flores

Chapter 13

Debtor(s):

Claudia C Flores

Pro Se

Movant(s):

Northeast Bank

Represented By
Michael S Greger

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-20946 Claudia C Flores

Chapter 13

#11.10 Hrg re: Motion for relief from stay [RP]

BANK OF HOPE
vs
DEBTOR

Docket 21

Tentative Ruling:

Grant as provided below, subject to any opposition at the hearing.
Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does apply

Deny the request for an order confirming that no stay is in effect. Although there is certainly evidence that Debtor's purported interest in the subject property probably is a fraud, nevertheless it is possible that the bankruptcy estate really does have an interest in the property - the documentation establishes at least some basis for this bankruptcy estate to assert a claim of an interest in the property (see dkt. 21, Ex.9), and the automatic stay protects that claim. Nor has Movant established that there is any exception to, or termination of, the automatic stay under 11 U.S.C. 362(b) or (c).

But the tentative ruling is that various forms of relief from the automatic stay are appropriate, as set forth below.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

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CONT... Claudia C Flores

Chapter 13

present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this may be a "hijacked" case, and that Debtor is innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). Accordingly, the tentative ruling is to condition any relief from the automatic stay on this Court's determination that this motion shall not result in the application of sections 109(g)(2) and 362(b)(21)(A) to Debtor or any property other than the property that is the subject of this motion for relief from the automatic stay, and that by not contesting this tentative ruling the movant has waived and forfeited any contrary argument. See *In re Leafly*, 479 B.R. 545, 550-51 (9th Cir. BAP 2012); *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270.

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10:00 AM

CONT... Claudia C Flores

Chapter 13

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Claudia C Flores

Pro Se

Movant(s):

Bank of Hope

Represented By
Joon W Song

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:19-21230 John Lawrence Seitz

Chapter 13

#12.00 **[CASE DISMISSED on 10/17/19]**

Hrg re: Motion for relief from stay [RP]

NEILIA LAVALLE PHILANTHROPIES
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant in part and continue in part to 11/12/19 at 10:00 a.m. to address the following issues. Appearances are not required on 10/29/19.

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Reasons:

There is no automatic stay

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Inadequate service for any additional relief

This Court cannot grant further relief (including "*in rem*" relief under 11

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CONT... **John Lawrence Seitz**

Chapter 13

U.S.C. 362(d)(4)) because the proof of service does not show service on Debtor in the manner required by Rules 4001(a)(1), 7004, and 9014(a) (Fed. R. Bankr. P.). Under those rules, email service requires the consent of the person being served to accept service via email. The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

John Lawrence Seitz

Pro Se

Movant(s):

Neilia LaValle Philanthropies

Represented By
Ronald Appel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:18-24350 Pedro Gonzalez, Jr.

Chapter 13

#13.00 Hrg re: Motion for relief from stay [PP]

ALLY BANK
vs
DEBTOR

Docket 40

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Pedro Gonzalez, Jr.

Chapter 13

Party Information

Debtor(s):

Pedro Gonzalez Jr.

Represented By
Sam Benevento

Movant(s):

Ally Bank

Represented By
Adam N Barasch

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-16781 Walter Donzel Duarte

Chapter 13

#14.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
VS
DEBTOR

Docket 37

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Walter Donzel Duarte

Represented By
William J Smyth
Stephen S Smyth

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-17733 Noah J Williams and Myrtis K Williams

Chapter 13

#15.00 Hrg re: Motion for relief from stay [PP]

NISSAN MOTOR ACCEPTANCE CORP
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Noah J Williams and Myrtis K Williams

Chapter 13

Party Information

Debtor(s):

Noah J Williams

Represented By
Donny A Ekine

Joint Debtor(s):

Myrtis K Williams

Represented By
Donny A Ekine

Movant(s):

NISSAN MOTOR ACCEPTANCE

Represented By
Michael D Vanlochem

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

10:00 AM

2:18-23072 Cassandra S Patrick

Chapter 13

#16.00 Hrg re: Motion for relief from stay [PP]

MECHANICS BANK
vs
DEBTOR

Docket 54

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Cassandra S Patrick

Chapter 13

Party Information

Debtor(s):

Cassandra S Patrick

Pro Se

Movant(s):

MECHANICS BANK

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-20656 Juan Torres

Chapter 13

#17.00 Hrg re: Motion for relief from stay [UD]

WESTERN HIGHRIDGE INVESTORS, LP
vs
DEBTOR

Docket 14

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other

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CONT...

Juan Torres

Chapter 13

enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Juan Torres

Pro Se

Movant(s):

Western Highridge Investors, LP,

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-21587 Theresa Liu

Chapter 13

#18.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 9

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

Key documents reviewed (other than the motion papers): Docket from Debtor's two prior filings (2:19-bk-14059-WB and 2:19-bk-20164-NB).

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you

**United States Bankruptcy Court
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Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

CONT... Theresa Liu

Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Theresa Liu

Represented By
Suzette Douglas

Movant(s):

Theresa Liu

Represented By
Suzette Douglas

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-21653 Jerry L. Turnbull

Chapter 13

#19.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 8

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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Los Angeles
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10:00 AM

CONT... Jerry L. Turnbull

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jerry L. Turnbull

Represented By
Scott Kosner

Movant(s):

Jerry L. Turnbull

Represented By
Scott Kosner

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-21699 Gerald J Dennis

Chapter 13

#20.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

CONT... Gerald J Dennis

Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Gerald J Dennis

Represented By
Axel H Richter

Movant(s):

Gerald J Dennis

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-21709 Teresita Millare Ongais

Chapter 13

#21.00 Hrg re: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 19

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT... Teresita Millare Ongais Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Teresita Millare Ongais

Represented By
Rabin J Pournazarian

Movant(s):

Teresita Millare Ongais

Represented By
Rabin J Pournazarian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:16-21984 Jose Santana Figueroa Damian

Chapter 13

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/24/19

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 56

Tentative Ruling:

Tentative Ruling for 10/29/19 (same as for 9/24/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 58).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Santana Figueroa Damian

Represented By
Onyinye N Anyama

Movant(s):

Nationstar Mortgage LLC as

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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10:00 AM

CONT... Jose Santana Figueroa Damian

Chapter 13

**United States Bankruptcy Court
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Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:17-11163 Linet Morin

Chapter 13

#23.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/9/19, 7/30/19, 9/10/19, 9/24/19

CITIBANK, NA.
vs
DEBTOR

Docket 32

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Linet Morin

Represented By
Peter L Lago
Kerry P O'Brien

Movant(s):

Citibank, N.A., as Trustee, in trust

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:18-11817 Tierus Eugene James

Chapter 13

#24.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 55

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Tierus Eugene James

Represented By
Kevin T Simon

Movant(s):

Deutsche Bank National Trust

Represented By
Kelsey X Luu
Dane W Exnowski
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:18-20491 Carl De La Fuente

Chapter 13

#25.00 Cont'd hg re: Motion for relief from stay [RP]
fr. 9/24/19

SPECIALIZED LOAN SERVICING LLC
VS
DEBTOR

Docket 36

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Carl De La Fuente

Represented By
Joseph A Weber
Fritz J Firman

Movant(s):

SPECIALIZED LOAN SERVICING

Represented By
Mukta Suri
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-11611 Yeni Ramos

Chapter 13

#26.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19

U.S. BANK NA.
VS
DEBTOR

Docket 47

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Yeni Ramos

Represented By
Lionel E Giron
Crystle Jane Lindsey

Movant(s):

U.S. Bank N.A., as trustee, on behalf

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-12302 La Chanda Charlene Webb

Chapter 13

#27.00 Cont'd hrg re: Motion for relief from stay [PP]
fr. 9/24/19

GLOBAL LENDING SERVICES LLC
VS
DEBTOR

Docket 37

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

La Chanda Charlene Webb

Represented By
Hale Andrew Antico

Movant(s):

Global Lending Services LLC

Represented By
Erica T Loftis Pacheco
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:19-12611 Margarita Dolores Gonzalez

Chapter 13

#28.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/06/19, 9/10/19

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address whether Debtor is performing under the LMM trial period (see Order, dkt.42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Continue to 10/29/19 at 10:00 a.m. in view of Debtor's entry into the LMM program (see Order, dkt.42) and Debtor's status report (dkt.41). If Debtor is performing under the LMM trial period, and files a declaration saying so prior to the continued hearing, then this Court anticipates a further continuance of this hearing. Appearances are not required on 9/10/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

CONT... **Margarita Dolores Gonzalez**

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for for 8/6/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Margarita Dolores Gonzalez

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:17-20626 Bernice Roberts Taylor

Chapter 13

#29.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/24/19

CHAMPION MORTGAGE COMPANY DBA
NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 26

*** VACATED *** REASON: Withdrawn [dkt. 29]

Tentative Ruling:

Tentative Ruling for 10/29/19 (same as for 9/24/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the Debtor has obtained proof of insurance coverage for the period of 7/1/17 - 10/13/17, (b) Debtor's alleged non-payment of property taxes (dkt. 26 at PDF p.6; not disputed in Debtor's response, dkt.28), (c) whether the alleged arrears have been brought current and/or (d) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 28).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Bernice Roberts Taylor

Represented By
Thomas B Ure

Movant(s):

Champion Mortgage Company

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

CONT... Bernice Roberts Taylor

Anna Landa

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

2:17-17121 Sergio Antonio Franco, Sr.

Chapter 13

#30.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/15/19

AJAX MORTGAGE LOAN TRUST 2018-G
MORTGAGE-BACKED SECURITIES, SERIES
2018-G
vs
DEBTOR

Docket 37

Tentative Ruling:

Tentative Ruling for 11/5/19 (same as for 10/15/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sergio Antonio Franco Sr.

Represented By
Gregory M Shanfeld

Movant(s):

Ajax Mortgage Loan Trust 2018-G,

Represented By
Joshua L Scheer
Reilly D Wilkinson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

10:00 AM

CONT... Sergio Antonio Franco, Sr.

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

11:00 AM

2:19-20269 Joel Spivak

Chapter 7

#1.00 Status conference re: Chapter 7 Involuntary Petition

Docket 1

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Dismiss this involuntary petition for lack of prosecution: the docket does not reflect any service of the summons and notice of this status conference.

Proposed order: The Court will prepare the order after the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Joel Spivak

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01436 Sam S. Leslie, Chapter 7 Trustee v. Red Sea Consultancy FZE

#2.00 Hrg re: Motion of Plaintiff for Order Authorizing Service of Summons and Complaint on Defendant Red Sea Consultancy FZE Pursuant to Rule 4(f)(3) of the Federal Rules of Civil Procedure

Docket 2

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff	Pro Se
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Defendant(s):

Red Sea Consultancy FZE	Pro Se
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Movant(s):

Sam S. Leslie, Chapter 7 Trustee	Represented By Elissa Miller
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

11:00 AM

CONT... Zeta Graff

Chapter 7

Plaintiff(s):

Sam S. Leslie, Chapter 7 Trustee

Represented By
Elissa Miller

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1645 Calendar**

Tuesday, October 29, 2019

Hearing Room 1645

11:00 AM

2:14-30543 Erlinda Grace Tan Elemen

Chapter 7

Adv#: 2:19-01182 Elemen v. Trinity Financial Services LLC et al

#4.00 Order to show cause why adversary proceeding should not be dismissed against Special Default Services, Inc.

Docket 12

***** VACATED *** REASON: Continued to 12/17/19 at 11:00 a.m. (dkt.17)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Erlinda Grace Tan Elemen

Represented By
Emmanuel S Vargas

Defendant(s):

Trinity Financial Services LLC

Represented By
Matthew S Henderson

Special Default Services, Inc.

Pro Se

DOES 1-10

Pro Se

Plaintiff(s):

Erlinda Grace Tan Elemen

Pro Se

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:19-01156 Gonzalez v. Karen et al

#5.00 Cont'd status conference re: Complaint to avoid and recover preferential transfer [11 U.S.C. sections 547(b), 550, 551] fr. 7/30/19, 9/24/19

Docket 1

*** VACATED *** REASON: Cont'd status conference to 12/10/19 at 2:00 p.m. [dkt. 20]

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David M. Karen

Represented By
Keith S Dobbins

DK Law Group, LLP

Represented By
Keith S Dobbins

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

11:00 AM

2:18-24507 Rima Adam Nano

Chapter 7

Adv#: 2:19-01181 Elissa D. Miller, Chapter 7 Trustee v. NANO

- #6.00** Cont'd status conference re: Complaint for (1) Avoidance of actual fraudulent transfer [11 U.S.C. section 548(a)(1)(A)]; (2) Avoidance of constructive fraudulent transfer [11 U.S.C. section 548(a)(1)(B)]; (3) Recovery of avoided transfer [11 U.S.C. section 550]; (4) Declaratory relief; and (5) Turnover [11 U.S.C. section 542] fr. 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Continue to 1/28/20 at 11:00 a.m. at the request of the parties (see adv. dkt. 7). Appearances are not required on 10/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Continue to 10/29/19 at 11:00 a.m. at the requested of the parties (see adv. dkt. 6). Appearances are not required on 8/20/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

11:00 AM

CONT... Rima Adam Nano

Chapter 7

Debtor(s):

Rima Adam Nano

Represented By
G Marshall Hann

Defendant(s):

ADMON NANO

Represented By
Gary A Starre

Plaintiff(s):

Elissa D. Miller, Chapter 7 Trustee

Represented By
Jeremy Faith
Noreen A Madoyan

Trustee(s):

Elissa Miller (TR)

Represented By
Noreen A Madoyan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#1.00 Hrg re: Motion For Final Decree and Order Closing Case

Docket 103

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2, 10/29/19 at 1:00 p.m.)

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

Movant(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#1.10 Hrg re: Motion for entry of discharge of chapter 11 case
Pursuant to 11 U.S.C 1141(D)(5) upon completion of payments
to unsecured creditors and final decree closing chapter 11 case

Docket 111

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2,
10/29/19 at 1:00 p.m.)

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

Movant(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:18-12453 Abelino Mariscal Gonzalez

Chapter 11

#2.00 Cont'd status conference re: Post confirmation
fr. 6/11/19, 7/2/19, 10/15/19

Docket 74

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Current issues

(1) Motion for Entry of Discharge (dkt. 111)

Grant, subject to any opposition at the hearing.

(2) Motion for Entry of a Final Decree and Order Closing Case (dkt.

103)

Grant, subject to any opposition to the Motion for Entry of Discharge at the hearing, and close this case.

Proposed orders: Debtor is directed to a separate lodge proposed order on each of the two foregoing motions via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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CONT... Abelino Mariscal Gonzalez

Chapter 11

Debtor is directed to address (1) why the status report due 10/1/19 was not filed (see Order, dkt.94, ordering para.4), (2) whether Debtor has been making the required payments and is otherwise in compliance with the confirmed Plan, and (3) the issues raised by this Court's order (dkt.106) setting this hearing on Debtor's application (dkt.103) for a final decree.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Abelino Mariscal Gonzalez

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#3.00 Hrg re: Motion For Final Decree and Order Closing Case

Docket 191

Tentative Ruling:

Please see the tentative ruling in status conference (Cal. No. 4, 10/29/19 at 1:00 p.m.).

Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

Movant(s):

Glynder Lucas Striggs

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#4.00 Cont'd Status Conference re: Post Confirmation
fr. 5/31/16, 7/19/16, 9/13/16, 11/8/16, 1/10/17, 02/28/17,
4/11/17, 5/23/17, 6/20/17, 8/8/17, 8/15/17, 11/14/17,
02/13/18, 7/10/18, 9/18/18, 12/11/18, 5/7/19; 08/06/19,
8/20/19, 9/24/19

Docket 6

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion for final decree (dkt. 191), limited opposition of U.S. Bank National Association ("US Bank") (dkt. 195), no reply is on file

The tentative ruling is to grant the Motion for Final Decree provided that (i) the order will recite that it is without prejudice to US Bank's rights to deem the loan in default for failure to make payments as set forth in US Bank's limited opposition (dkt. 195) and (ii) notwithstanding Debtor's assertion that all matters have been resolved (dkt.191, p.4, para.4.a.) it appears that once Debtor has made 60 months of payments to unsecured creditors she will have to file a motion for discharge (see Plan, dkt.102, p.4, Art.IV.A.), and therefore the tentative ruling is to close this case on an interim basis (not a final basis) so that, at that time, Debtor can more easily file a motion to reopen this case and a motion to be granted a discharge of her debts.

Proposed order: US Bank is directed to lodge a proposed order via LOU within 7 days after the hearing date reflecting the foregoing terms, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(b) Motion by U.S. Trustee ("UST") to dismiss ("MTD," dkt.183)
At the hearing on 9/24/19 the UST orally consented to denial of its

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CONT... Glynder Lucas Striggs
MTD.

Chapter 11

Proposed order/withdrawal: The UST is directed either to withdraw its MTD or to lodge a proposed order via LOU denying the MTD, within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (order timely served, dkt. 39)

(b) Third Amended Plan (dkt. 102): Confirmed (dkt. 135).

(c) Continued post-confirmation status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

**United States Bankruptcy Court
Central District of California
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Judge Neil Bason, Presiding
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Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#5.00 Hrg re: Motion to Use Cash Collateral

Docket 51

Tentative Ruling:

Appearances required. Deny the (belated) motion re cash collateral (docket no. 51) and only authorize Debtor to use funds to pay the following items in the proposed budget (dkt.51, Ex."A" "1", at p.22):

- (1) non-insider payroll, payroll taxes, benefits, and payroll service,
- (2) consultants whose employment has been authorized by written order of this Court,
- (3) insurance,
- (4) Hanmi Bank adequate protection payments equal to regular monthly payments of principal and interest - not any "loan fees,"
- (5) property repair and maintenance,
- (6) Office expense and supplies, postage, and shipping,
- (7) Permits, property taxes, and licenses,
- (8) telecommunications,
- (9) utilities.

The tentative ruling is that all other expenses are not adequately explained and justified. For example, the proposed budget includes \$108,222 (approximately 2/3 of the total expenses) for "Taxi Vouchers and tokens" plus \$3,155/mo. for "Equipment rental and maintenance," \$3,412/mo. for "Management Fees," and \$5,784/mo. for "Facility cost (rent utilities)." How can any creditors or this Court assess whether those things are "ordinary course" without some explanation? See 11 U.S.C. 363(b).

Has Debtor historically been in the business of providing taxi vouchers to low-income persons to facilitate employment, medical visits, and food? If so, why was this not explained in more detail in the initial status conference report? See dkt.11. Are those services paid for out of the grants that Debtor receives? Is there any protection of the bankruptcy estate against misuse of such a large amount of transfers? Is the budget for those things consistent with past practices and/or with the expenses of other nonprofits that provide similar services? See *In re Dant & Russell, Inc.*, 853 F.2d 700 (9th Cir. 1988).

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CONT... **FAME Assistance Corporation, a Non Profit Corp.**

Chapter 11

In addition, as to those expenditures that are approved, the tentative ruling is not to approve section "8" of the proposed stipulation with Hanmi Bank (dkt. 51, Ex.A). In that section Debtor purports to waive rights under 11 U.S.C. 364(d) and 506(c), but there is no showing why that would be appropriate and it might be detrimental to creditors. The tentative ruling is, instead, to require that Debtor provide at least 72 hours' advance notice of any proposed expenditure that Debtor believes would qualify for reimbursement under section 506(c), absent exigent circumstances that make such advance notice impossible. In other respects, the tentative ruling is to authorize the use of cash collateral as provided in the stipulation, but subject to the conditions set forth below.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall

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CONT... **FAME Assistance Corporation, a Non Profit Corp.** **Chapter 11**

name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

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CONT...

FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

CONT... FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

**United States Bankruptcy Court
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1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#6.00 Hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115

Docket 60

Tentative Ruling:

Please see tentative ruling in status conference (cal. no. 7, 10/29/19 at 1:00 p.m.).

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 case
fr. 8/20/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required

(1) Current issues

(a) Budget Motion (dkt. 60) and cash collateral motion (dkt.61) and stipulation (dkt.61, Ex.A)

Deny, and only authorize a limited use of cash collateral and/or property of the estate as set forth in the tentative ruling for calendar no. 5 (10/29/19 at 1:00 p.m.).

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Monthly Operating Report, for 9/30/19 ("MOR," dkt.69)

Debtor's MOR raises a number of concerns. First, the first page lists a very large monthly net loss and a large negative ending balance. Second, Debtor's report of postpetition accounts receivable (dkt.69, at PDF p.36) lists aging that exceeds the entire duration of this case: how can that be so? Third, Debtor reports payments of insider compensation, allegedly pursuant to order(s) from 2017 (dkt.69, at PDF p.38) but this case was not filed until 2019. Later the MOR asserts, "Insider compensation forms previously served. No objections." (dkt.69, at PDF p.41) But this Court's review of the docket did not disclose any proof of service of any such notices. Fourth, the MOR reports (dkt.69, at PDF pp.34-35) that Debtor is delinquent in real property taxes and UST fees. In sum, the MOR paints a bleak and internally inconsistent picture.

(c) Remedies?

As set forth in this Court's procedures order (dkt.2), this Court can

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CONT... **FAME Assistance Corporation, a Non Profit Corp.** **Chapter 11**

make case-dispositive rulings at any status conference, among other things.
What remedies are appropriate to address the foregoing concerns?

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception*: Per oral order at 9/24/19 hearing, the bar date for creditors Apex Realty, Inc. and BRG Adams, LLC will be set at the hearing on 11/5/19.

(b) Procedures order: dkt.2 (timely served, dkt.23).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 11/5/19 at 2:00 p.m., concurrent with other matters in this case; no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Missing status report

As of the time this tentative ruling has been prepared, no status report is on file. Why Not?

(b) Missing budget motion

At the 8/20/19 status conference this Court directed the Debtor to file a budget motion. As of the time this tentative ruling has been prepared, the docket does not reflect that the Debtor has complied. Why not?

(c) Cash collateral

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CONT...

FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

At the 8/20/19 status conference, this Court expressed serious concerns about Debtor's possible use of cash collateral without the consent of its lender. What is the status of the Debtor's negotiations with its lender re cash collateral?

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/29/19 at 1:00 p.m., *brief* status report due 10/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Service of order setting principal status conference

This Court's order setting principal status conference (dkt. 2) required Debtor to serve this order on all parties in interest and file a proof of service at least 14 days before the principal status conference. As of the drafting of this tentative ruling, the docket does not reflect such service. Was the order served?

(b) Missing budget motion

Debtor's status report states that Debtor has not yet filed a budget motion but "will do so if necessary." Dkt. 11 at p.3. Per the posted Procedures of Judge Bason (available at cacb.uscourts.gov), budget motions are required in all Chapter 11 cases.

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CONT... FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

(c) Cash collateral

Debtor indicates that it will meet and confer with its lender re cash collateral. Dkt. 11 at p.3. What is the status of those negotiations?

Pending lender approval, how has Debtor continued to operate its business since filing? Has Debtor been using cash collateral without authorization? Has Debtor been holding the rent money it has received in a separate account?

(d) Interim arbitration award

Debtor should be prepared to apprise the court of the details surrounding the interim arbitration award, including the nature of the dispute, how Debtor intends to contest the award, and what approach to the award is in the best interests of creditors.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#8.00 Hrg re: Motion in Individual Ch 11 Case for Order Employing Professional (LBR 2014-1): Michael R. Totaro & Totaro & Shanahan as General Insolvency Counsel

Docket 63

Tentative Ruling:

Please see the tentative ruling in the status conference (cal. no. 10, 10/29/19 at 1:00 p.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:19-18316 Ashley Susan Aarons

Chapter 11

#9.00 Cont'd hrg re: U.S. Trustee's motion to dismiss or convert case
10/15/19

Docket 65

Tentative Ruling:

Tentative Ruling for 10/29/19:

Please see the tentative ruling in the status conference (cal. no. 10, 10/29/19 at 1:00 p.m.).

Tentative Ruling for 10/15/19:

Please see the tentative ruling in the status conference (cal. no. 3, 10/15/19 at 1:00 p.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

**United States Bankruptcy Court
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2:19-18316 Ashley Susan Aarons

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65), debtor's opposition (dkt. 86), no reply is on file

There is no tentative ruling, but Debtor is directed to address the thousands of dollars of unauthorized payments to "Independent Contractor[s]" Ofir Engel and L. Napolitano, "McCarthy Construction," and cash withdrawals, as well as the other issues raised by the UST. Debtor is also directed to address what progress, if any, has been made on insurance claims, AirBnB arrangements, refinancing or selling the Bel Air and Sweetzer properties, and other aspects of this bankruptcy case.

(b) Application to employ Totaro & Shanahan (the "Firm") (dkt. 63) (the "Employment Application"), Statement of disinterestedness (dkt. 100), UST Objection (dkt. 90), the Firm's errata (dkt. 97)

The tentative ruling is to grant the Employment Application, subject to any objection from the UST.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Procedures order: dkt.9 (timely served, dkt.18)

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1:00 PM

CONT...

Ashley Susan Aarons

Chapter 11

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/10/19 at 1:00 p.m.; no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) UST's motion to dismiss (dkt. 65), debtor's opposition (dkt. 86), no reply is on file

There is no tentative ruling. The parties should be prepared to address whether debtor has cured all outstanding compliance issues, and whether Debtor's second corrected opposition continues to have error(s) in calculating projected cash flow. That opposition lists net income before personal expenses for "Oct-19" and "Nov-19" as -5,850.00, but then after personal expenses of \$1,751.00 for each month it lists "excess income" of \$34,900.00. Dkt.94, Ex.1, at PDF pp.8-9. If the spreadsheet is wrong about those numbers, can creditors and this Court rely on the rest of Debtor's projections?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/10/19 at 1:00 p.m.; no written status report required.

*Warning: special procedures apply (see order setting initial status

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/4/19:
Appearances required.

(1) Current issues

(a) Motion for authority to obtain post-petition financing (dkt. 75, 76, 77, 80, 81, 82, 83, 84) (the "Finance Motion"); Alliance Portfolio/Private Equity Finance, Inc.'s Opposition (dkt. 91)

There is no tentative ruling. It appears no reply deadline was set, so debtor's reply will be allowed orally at the hearing.

(b) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The outcome of this motion is subject to this Court's decision whether to grant or deny the Finance Motion.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Ashley Susan Aarons

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required. The Court has reviewed the Debtor's status report (dkt. 69).

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The parties should be prepared to advise this Court on whether they will agree to an adequate protection order and the proposed \$50,000 loan from Complete Business Solutions Group ("Complete") (dkt.69, p.2:21-25). The parties also should be prepared to address whether shortened time or other special procedures are requested regarding any proposed lending. See 11 U.S.C. 364; Rules 4001(c) & 9006(c)(2) (Fed. R. Bankr. P.).

(b) Contemplated contract with Majestic Ventures LLC dba VacationHomes365.com ("Consultant") re marketing (Airbnb etc.)

Debtor is contemplating a contract with Consultant for marketing services. Dkt.69, Ex.2. As that contract points out (*id.*, sec.7.2, p.44), Debtor is responsible for complying with legal obligations regarding short term rentals, and associated costs, including local taxes.

The parties should be prepared to address whether Consultant is a "professional" within the meaning of 11 U.S.C. 327; whether approval of the contract with Consultant is required under that section or section 363(b); and whether shortened time or other special procedures are requested regarding any proposed agreement with Consultant. See 11 U.S.C. 327, 363(b); Rules 2002(a)(2) & 9006(c)(2) (Fed. R. Bankr. P.).

(c) Termination of prior real estate agent

Debtor reports (dkt. 69, para.3) that the previously authorized real estate agent has agreed to cancel the listing. Is that in writing? Will Debtor need any order related to that cancellation/termination? What assurance is there that this prior agent will not seek some sort of compensation?

(2) Deadlines/dates. This case was filed on 7/17/19.

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Chapter 11

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required.

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

Grant, as set forth in calendar no. 3 (9/10/19 at 1:00 p.m.).

(b) Employment Motion for The Turoci Firm (dkt. 23, 28)

Deny, as set forth in calendar no. 4 (9/10/19 at 1:00 p.m.). The parties should be prepared to address whether Debtor has arranged for alternate counsel.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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CONT... Ashley Susan Aarons

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by debtor herself.

(1) Current issues

(a) Airbnb

Debtor's budget motion (dkt. 37, Ex.A, p.2) reveals that, although the Sweetzer property is "listed to be sold," meanwhile "Debtor intends to rent [that property] as an Airbnb." The tentative ruling is that this is a transaction out of the ordinary course, which requires notice, an opportunity for a hearing, and approval by this Court. 11 U.S.C. 363(b). Has Debtor already acted on this intent, without such approval?

In addition, this Court is concerned about (i) whether Airbnb rental would be in compliance with any local permitting and zoning requirements and is otherwise permissible, (ii) whether that proposed use might expose the bankruptcy estate to liabilities, (iii) whether there is adequate insurance for that use of the property, and (iv) whether the proposed sale of the property is consistent with any agreement with Airbnb.

(b) Real estate agent.

The employment application (dkt. 26, p.4:1-4) states that Agent has agreed to disclose to Debtor [i.e., only to Debtor? how about disclosure to creditors, the US Trustee, and this Court?] any agency relationship Agent has with other parties ("Third Parties") that may be part of a real estate transaction for the sale of the Real Property [i.e., dual agency? that is prohibited by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)] as well as the amount of any compensation Agent receives from Agent's relationship with any Third Parties [i.e., splitting the commission with a cooperating agent from a different real estate agency? or something else?].

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Ashley Susan Aarons

Chapter 11

What does the quoted text mean? This Court's questions are set forth in the emphasized, bracketed text above.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

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2:19-12720 Andrea Pompelli Steyn

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
fr. 04/30/19, 06/04/19, 7/30/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances are not required on 10/29/19.

(1) Current issues

This status conference was continued to today's date by order of this Court (dkt.104). Debtor reports (dkt.108) that the Paseo Miramar Property has been lost in foreclosure, and asks for a further continuance of 90 days to figure out whether to continue in bankruptcy, or seek dismissal or conversion. The tentative ruling is to continue this status conference for a shorter period as set forth below.

(2) Deadlines/dates. This case was filed on 3/13/19 .

(a) Bar date: 6/30/19 (dkt. 45) (timely served 5/2/19, dkt. 47).

(b) Procedures order: dkt.7 (timely served, dkt.13)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/10/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

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CONT... Andrea Pompelli Steyn

Chapter 11

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#12.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19, 8/20/19, 9/17/19, 10/1/19

Docket 42

Tentative Ruling:

Tentative Ruling for 10/29/19:

Continue to 11/5/19 at 1:00 p.m. to be concurrent with Debtors' valuation motion (dkt.95), at which time Debtors are directed to address why this case should not be converted or dismissed due to (1) the large amount of cash transactions (without receipts) (Sept. MOR, dkt.97, p.3) and (2) Debtors' negative ending balance as of 9/30/19 (*id.*, p.1). Appearances are not required on 10/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/1/19:

Appearances required.

(1) Current issues

(a) Retention of replacement counsel

At the hearing on 9/17/19, this Court denied Debtors' application to employ the Law Offices of Lionel Giron (see dkt. 83). Debtors should be prepared to address whether they have retained new counsel and what is the appropriate disposition of this case.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after

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CONT...

Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: TBD at the status conference.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed orders: Debtor is directed to lodge proposed orders on the following matters via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(1) Current issues

(a) Amended budget motion (dkt. 72)

Grant.

(b) Employment application, Law Offices of Lionel E. Giron (dkt. 50), United States Trustee's ("UST") opposition (dkt. 61), Mr. Giron's reply (dkt. 65), Mr. Giron's supplemental declaration (dkt. 73), and the UST's reply (dkt.76)

Deny. At the last hearing this Court set a deadline of 9/3/19 for supplemental declarations of Mr. Giron and Mr. Egbase, and as of the date of this tentative ruling, only the former has been filed, and that is insufficient for the reasons stated at the hearing and in the UST's reply. See dkt. 73, 76.

The parties should be prepared to address how Debtors will transition

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CONT... Angel Rodriguez Lara and Angelica Soto Calva
to new counsel.

Chapter 11

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By

Joanne P Sanchez

Anthony Obehi Egbase

Joint Debtor(s):

Angelica Soto Calva

Represented By

Joanne P Sanchez

Anthony Obehi Egbase

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2:19-16482 Unified Protective Services, Inc.

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/2/19, 08/06/19, 8/20/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Continue as set forth below. Appearances are not required on 10/29/19.

(1) Current issues

This Court has reviewed Debtor's status report (dkt. 83) and 8/31/19 MOR (dkt.72) and has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/1/19.

(a) Bar date: 9/6/19 (timely served 7/18/19) (dkt. 31, 32)

(b) Plan/Disclosure Statement*: TBD (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/10/19 at 1:00 p.m., No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Unified Protective Services, Inc.

Chapter 11

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:19-17410 South Street Brentwood, LLC

Chapter 11

#14.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19

Docket 4

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances are not required on 10/29/19.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (timely served, dkt.23).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/5/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

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CONT... South Street Brentwood, LLC

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- (2) Deadlines/dates. This case was filed on 6/25/19.
- (a) Bar date: 10/15/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 10/29/19 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#15.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19,
04/30/19, 06/04/19; 08/06/19, 9/24/19

Docket 7

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues

(a) Settlement of Mazakoda's Inc.'s Claim

Debtors and Mazakoda have each reported a tentative settlement of their disputes (dkt.104, and adv.no. 2:19-ap-01243-NB, adv.dkt.8), and this status conference has been continued before in anticipation of such settlement (see dkt.106). But as of the preparation of this tentative ruling the docket does not reflect any motion to approve a settlement or other resolution. What is the status of the parties' attempted settlement, and what action should this Court take?

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 12/10/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... **Edmond Melamed and Rozita Melamed**

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances are not required on 9/24/19.

(1) Current Issues

(c) Settlement of Mazakoda's Inc.'s Claim

Debtors state (dkt.104) that they have engaged in settlement discussions with Mazakoda regarding its claim and are in the process of memorializing their agreement. The tentative ruling is to continue this matter to the date set forth below to allow time for the parties to finalize and obtain approval of any settlement.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/26/19 at 1:00 p.m. Brief status report due 11/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

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CONT... Edmond Melamed and Rozita Melamed

Chapter 11

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:19-20273 Alex Christopher Padilla

Chapter 11

#16.00 Cont'd hrg re: Motion to individual chapter 11 case for
order authorizing use of cash collateral
fr. 10/1/19

Docket 19

***** VACATED *** REASON: Cont'd to 12/10/19 at 1:00 p.m. [dkt. 43]**

Tentative Ruling:

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

Movant(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

1:00 PM

2:19-20273 Alex Christopher Padilla

Chapter 11

#17.00 Cont'd status conference re: Chapter 11 case
fr. 9/17/19, 10/1/19

Docket 1

***** VACATED *** REASON: Cont'd to 12/10/19 at 1:00 p.m. [dkt. 43]**

Tentative Ruling:

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

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2:19-18998 NAMR1726 LLC

Chapter 11

#18.00 Cont'd hrg re: U.S. Trustee's motion to dismiss or convert case
fr. 9/24/19, 10/15/19

Docket 37

Tentative Ruling:

Tentative Ruling for 10/29/19:

Please see the tentative ruling for the status conference (cal. no.19, 10/29/19 at 1:00 p.m.).

Tentative Ruling for 10/15/19:

Please see the tentative ruling in status conference (cal. no.16, 10/15/19 at 1:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 8, 9/24/19 at 1:00 p.m.).

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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2:19-18998 NAMR1726 LLC

Chapter 11

#19.00 Cont'd status conference re: Chapter 11 case
fr. 9/10/19, 9/24/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required.

(1) Current issues

(a) Insufficient progress?

The docket reflects some very recent movement toward leasing some vacant properties (dkt.72) but nothing about selling, refinancing, or otherwise deadling with the principal property in which Debtor asserts an interest, at 8527 Hedges Way, West Hollywood, CA. Why not?

(e) Motion of United States Trustee ("UST") to Dismiss etc. ("MTD," dkt. 37), Debtor's Opposition (dkt. 55)

Has Debtor address the issues raised in the UST's MTD? In addition, this Court's order setting procedures (dkt.9) provides that at any status conference this Court may take case-dispositive actions, such as conversion, dismissal, etc. Given the lack of progress, should this Court dismiss this case? Should this Court impose a bar under 11 U.S.C. 109(g)(1)?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).

(b) Procedures Order: dkt.9 (timely served, dkt.44)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference (if this case is not dismissed or converted): 12/10/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:
Appearances required.

(1) Current issues

(a) Inaccurate bankruptcy schedules

Why has Debtor not amended its bankruptcy schedules to reflect all of its creditors (at the 9/24/19 status conference it was reported that Debtor failed to list creditors with liens against three vacant parcels of real property)?

(b) Lack of any progress reflected on docket

As this Court previously has ruled, in connection with creditor Maxim's motion for relief from the automatic stay, "the longer this case is pending the greater will be the burden on Debtor to provide specific information and evidence as to precisely how [each] property [that Debtor claims to own] remains necessary to an effective reorganization." Dkt.36, Ex.1, at PDF p.4. Why does the docket not reflect any progress, such as a motion to approve employment of a real estate broker, or a motion to approve refinancing, or a motion to abandon one or more properties?

(c) Missing status report

At the status conference on 9/24/19, this Court set a deadline of 10/4/19 for debtor to file a status report and an application to employ new counsel. Why has no status report been filed?

(d) Missing Local Form F 2014-1

Debtor has filed an application to employ Pena & Soma, APC (dkt. 68), but the posted Procedures of Judge Bason require Local Form 2014-1. Where is that form?

(e) Motion of United States Trustee ("UST") to Dismiss etc. ("MTD," dkt. 37), Debtor's Opposition (dkt. 55)

Has Debtor address the issues raised in the UST's MTD? In addition, this Court's order setting procedures (dkt.9) provides that at any status conference this Court may take case-dispositive actions, such as conversion, dismissal, etc.

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- (2) Deadlines/dates. This case was filed on 8/1/19.
- (a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).
 - (b) Procedures Order: dkt.9 (timely served, dkt.44)
 - (c) Plan/Disclosure Statement*: TBD
 - (d) Continued status conference: 11/5/19 at 1:00 p.m., *brief* status report due 10/28/19.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:
Appearances required.

- (1) Current issues
- (a) Motion to Dismiss, Convert or Appoint a Chapter 11 Trustee (dkt. 37), Debtor's Opposition (dkt. 55), no reply is on file
If Debtor is not in full compliance with all UST requirements by the hearing, this Court will determine whether to dismiss, convert or appoint a chapter 11 trustee in this case.

(b) Application to Employ Ure Law Firm (dkt. 24), Statement of Disinterestedness (dkt. 23), Maxim's Oppositions (dkt. 31, 50), Notice of hearing (dkt. 40), Debtor's Reply (dkt. 61)

The tentative ruling is to deny Debtor's request to employ the Ure Law Firm ("Ure Firm"), and set a **10/4/19** deadline for Debtor to file and serve an application to retain new counsel, for the following reasons:

- (i) Mr. Ure and the Ure Firm are not "disinterested" and represent an "adverse interest" to the estate by reason of their representation of HDA Trucking, Inc. and Nelson Sargsyan

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11 U.S.C. Section 327(a) "requires the application of a two-pronged test for the employment of professional persons. A debtor-in-possession may employ attorneys with court approval only if (1) they do not hold or represent an interest adverse to the estate, and (2) they are disinterested persons." *In re Tevis*, 347 B.R. 679, 687 (9th Cir. BAP 2006).

The term "adverse interest" is not defined in the Bankruptcy Code, but has been defined by case law to mean:

(1) possession or assertion of an economic interest that would tend to lessen the value of the bankruptcy estate; or (2) possession or assertion of an economic interest that would create either an actual or potential dispute in which the estate is a rival claimant; or (3) possession of a predisposition under circumstances that create a bias against the estate.

Tevis, 347 B.R. 679, 688. "To represent an adverse interest means to serve as an attorney for an entity holding such an adverse interest." *Id.*

The term "disinterested person" is defined in the Bankruptcy Code to include, *inter alia*, one who "does not have an interest materially adverse to the interests of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason." 11 U.S.C. Section 101(14) (C). "For the purpose of disinterestedness, a lawyer has an interest materially adverse to the interest of the estate if the lawyer either holds or represents such an interest." *Tevis*, 347 B.R. 679, 688.

The tentative ruling is to find that because Mr. Ure and the Ure Firm represented HDA Trucking, Inc. ("HDA Trucking") in its recent bankruptcy case (Case No. 1:19-bk-11595-DS) (the "HDA Trucking Bankruptcy Case"), and have represented HDA Trucking's principal, Nelson Sargsyan ("Mr. Sargsyan"), in his pending bankruptcy case (Case No. 1:19-bk-10790-VK) (the "Sargsyan Bankruptcy Case"), the Ure Firm is not a "disinterested person" and represents an "adverse interest" to the estate for purposes of this case because Debtor's Bankruptcy Schedules identify HDA Trucking as a creditor of Debtor's estate (see dkt. 1, PDF pp.6 & 16) and because there have been inconsistent representations made by HDA, Sargsyan, and Debtor regarding the chain of interests in 8527 Hedges Way, Los Angeles, California 90069 (the "Hedges Property"), which is the real property that is at the center of all these bankruptcy cases.

(ii) Mr. Ure and the Ure Firm violated Rule 2014(a) by failing to

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disclose their connection with Mr. Sargsyan and HDA Trucking

Rule 2014(a) (Fed. R. Bankr. P.) requires that a firm's application for employment disclose "all of the [applicant's] connections with the debtor, creditors, [or] any other party in interest" The disclosure requirements of Rule 2014 are strictly applied. *In re Park-Helena Corp.*, 63 F.3d 877, 881 (9th Cir. 1995). Professionals "cannot pick and choose which connections are irrelevant or trivial . . . No matter how old the connection, no matter how trivial it appears, the professional seeking employment must disclose it." *Id.* at 882.

In this case, Mr. Ure and the Ure Firm failed to disclose their prior representation of HDA Trucking in its bankruptcy case, or their prior and current representation of Mr. Sargsyan in his bankruptcy case, in either the Application (dkt. 24) or the Statement of Disinterestedness (dkt. 23).

For the foregoing reasons, the tentative ruling is that the Ure Firm is disqualified from representing the Debtor and its employment must be denied.

(c) Maxim's Rule 9011 Sanction Motion (dkt. 32), Mr. Ure/Ure Firm's Opposition (dkt. 54), Maxim's Reply (dkt. 57)

Maxim Commercial Capital, LLC ("Maxim") seeks an order imposing sanctions against Mr. Ure and the Ure Firm for alleged violations of Rule 9011 (Fed. R. Bankr. P.).

(i) Background

As best as this Court can discern from its review of various pleadings filed in this case, the Sargsyan Bankruptcy Case, and the HDA Trucking Bankruptcy Case, the relevant facts are as follows:

On 4/7/16 Maxim made a loan to NAMR 2617, LLC ("Other-NAMR") in the sum of \$2,669,365 (the "Loan"). The Loan was personally guaranteed by Mr. Sargsyan and Alice and Nazaret Chakrian (the "Chakrians," and together with Mr. Sargsyan, the "Guarantors"). The Guarantors also executed a deed of trust securing their guaranties of the Loan against the Hedges Property.

On 12/30/16, Mr. Sargsyan recorded a Grant Deed conveying his interest in the Hedges Property to Nazaret Chakrian ("Mr. Chakrian") (dkt. 11, PDF p. 352-356). The parties subsequently executed a number of loan modifications and, ultimately, the Loan fully matured without timely payment. As a result, the Hedges Property was noticed for a judicial foreclosure sale on 4/5/19.

On 4/3/19 Mr. Sargsyan filed a voluntary chapter 7 petition and asserted a 25% ownership interest in the Hedges Property (Sargsyan

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Bankruptcy Case, 1:19-bk-10790-VK, dkt. 1, Schedule A/B). On 5/1/19 Maxim filed a motion for relief from the automatic stay with respect to the Hedges Property (the "Sargsyan R/S Motion," *id.*, dkt. 18). Mr. Ure, acting for Debtor Sargsyan, filed an opposition (*Id.*, dkt. 33, p.2:1-3), which did not argue that Debtor Sargsyan had any interest in the Hedges Property (contrary to what he had indicated in his bankruptcy schedules) but did argue that Mr. Sargsyan had "personally guaranteed the loan" with Maxim.

Following a hearing on the Sargsyan R/S Motion, the Bankruptcy Court entered an order denying the motion as moot based on the Court's finding that the Hedges Property was not property of Mr. Sargsyan's estate because Mr. Sargsyan had conveyed away his interest in the Hedges Property to Nazaret Chakrian ("Mr. Chakrian") pre-petition, on 9/30/16 (see *Id.*, dkt. 51, Ex. 1) (the "Sargsyan R/S Order"). After entry of the Sargsyan R/S Order, Maxim re-noticed a foreclosure sale for 8/2/19.

On 6/28/19, Mr. Sargsyan caused HDA Trucking to file a voluntary chapter 11 petition and assert an ownership interest in the Hedges Property (HDA Trucking Bankruptcy Case, 1:19-bk-11595-DS, dkt.1, Schedule A/B). According to Maxim, HDA Trucking has no such interest in the Hedges Property.

On 7/24/19, the United States Trustee (the "UST") filed a motion to appoint a trustee or convert or dismiss that case (*Id.*, dkt. 24). At the hearing on that motion, HDA Trucking stipulated to the dismissal of the case and the case was dismissed by order entered 7/31/19 (*Id.*, dkt. 27).

On 8/1/19 the instant bankruptcy case was filed by Debtor (which is similarly named, but not the same as, the Other-NAMR). Debtor asserts an interest in the Hedges Property pursuant to a Grant Deed recorded on 4/2/19 in which Mr. Chakrian conveyed a 10% interest in the Hedges Property to Debtor (dkt. 1, Schedule A/B & dkt. 11, PDF pp. 361-364).

Almost immediately after this bankruptcy case was filed, Maxim filed an emergency motion for relief from the automatic stay and this Court shortened time, reviewed briefs, heard arguments, made oral findings of fact and conclusions of law on the record, and issued an order that prevented any future bankruptcy case from affecting the Hedges Property (subject to the usual limitations on such relief). Dkt.36. But this Court declined to terminate the automatic stay at this time (*id.*) because, among other things, (A) other creditors' interests are at stake, (B) on the evidence presented Maxim's interests are fully adequately protected, and (C) Debtor may be able to

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restructure its finances in a manner that will benefit all parties in interest.

At that early hearing this Court suggested that a transfer of a fractional interest among related entities is not necessarily evidence of bad faith. This Court took judicial notice that debtors and their affiliates not infrequently engage transfers of fractional interests as a way to balance the accounts among them, or for other reasons that may be perfectly consistent with good faith, even if they violate provisions of loan documents or other obligations.

But this Court's unwillingness to suppose bad faith at the inception of this case, before adequate time to respond, should not be misconstrued as giving a blanket exemption from any subsequent finding of bad faith or other misconduct. This Court is troubled by some of the conduct outlined in Maxim's motion papers.

With this context, this Court turns to Maxim's motion for sanctions.

(ii) Maxim has not established that Judge Bason can or should impose sanctions under Rule 9011 for conduct that occurred in bankruptcy cases that are *not* before Judge Bason

As a preliminary matter, Maxim has not addressed whether it would be proper, or even within the jurisdiction of the instant bankruptcy case, for Judge Bason to impose sanctions regarding any cases that are not pending before Judge Bason. The Sargsyan Bankruptcy Case is still pending before Judge Kaufman, and the HDA Trucking Bankruptcy Case was pending before Judge Saltzman, and the tentative ruling is that any request for sanctions for conduct in those cases must be presented to those Bankruptcy Judges.

That is not to say that prior conduct in other cases is irrelevant. Such prior conduct may establish a pattern of conduct that extends into this case, or may otherwise shed light on the conduct in this case. But the tentative ruling is that Judge Bason will only consider sanctions regarding conduct in the instant bankruptcy case.

(iii) Maxim has not established misconduct in connection with the Sargsyan Bankruptcy Case

Maxim asserts - as part of its argument that Mr. Ure's conduct and the Ure Firm's conduct in this case is sanctionable - that there is a pattern of abuse starting with the filing of the Sargsyan Bankruptcy Case. The tentative ruling is that this assertion is not persuasive.

Nothing in Maxim's papers establishes that it was frivolous or otherwise improper for Mr. Ure and the Ure Firm to oppose Maxim's request for relief from the automatic stay in the Sargsyan Bankruptcy Case, in light of

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Debtor Sargsyan's position as a Guarantor. True, the automatic stay's protection against *in rem* acts generally extends only to property of the debtor (see 1:19-bk-10790-VK, dkt.51 (the Sargsyan R/S Order)); and the automatic stay's protection against *in personam* acts generally extends only to the debtor. See, e.g., *In re Advanced Ribbons and Office Prod's, Inc.*, 125 B.R. 259, 262-67 (9th Cir. BAP 1991) (guarantor, and guarantor's property, not protected). But Maxim has not cited any authority that it was frivolous for Debtor Sargsyan to take the position that acts to foreclose the Hedges Property, based on a debt he guaranteed, were acts "to collect, assess, or recover a claim against the debtor that arose before the commencement of the [bankruptcy] case" within the meaning of 11 U.S.C. 362(a)(6), if not based on existing caselaw then based on a nonfrivolous assertion regarding "extension, modification, or reversal of existing law or the establishment of new law." Rule 9011(b)(2). The tentative ruling is that there is nothing sanctionable in making this argument.

True, Mr. Sargsyan, Mr. Ure, and the Ure Firm should have been more careful in verifying that Debtor did in fact have an interest in the Hedges Property before Debtor Sargsyan said so, under penalty of perjury, in his bankruptcy schedules. And it would have been preferable for the Ure Firm to cite some authority for their position, or expressly argue for an extension of existing law or other nonfrivolous legal grounds, and to amend the bankruptcy schedules once the record ownership of the property became apparent.

But, given the transfers back and forth (described above), and the last-minute scramble that almost invariably precedes an emergency bankruptcy filing, it appears that the original misstatement of ownership in the bankruptcy schedules, and the lack of citation to legal authority in opposing the Sargsyan R/S Motion, are more consistent with a lack of adequate time than any intentional falsehood or misconduct. And once it became apparent that the automatic stay did not protect the property, it is understandable (although not the ideal course of action) to move on and not take the time to amend the bankruptcy schedules.

(iv) Maxim has established apparent misconduct in connection with the HDA Trucking Bankruptcy Case

Maxim asserts that HDA Trucking had no interest in the Hedges Property whatsoever, and yet falsely listed that property on its bankruptcy schedules. Dkt.32, p.7:5. The Ure Firm has not offered any explanation why, even after the incorrect assertion by Mr. Sargsyan of an ownership interest in

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the Hedges Property, it filed another bankruptcy case that, once again, asserted an ownership interest that is not supported by any evidence. The tentative ruling is that this is *prima facie* evidence of the Ure Firm's lack of "inquiry reasonable under the circumstances" and apparent filing of the petition for an improper purpose - namely a scheme to hinder, delay, or defraud Maxim. Rule 9011(b)(1).

Alternatively, the tentative ruling is that this is also *prima facie* evidence of a factual contention that, after "an inquiry reasonable under the circumstances," does not have "evidentiary support," or that has not been "specifically [] identified" as "likely to have evidentiary support after a reasonable opportunity for further investigation or discovery." Rule 9011(b)(3).

In the face of such *prima facie* evidence of a violation of Rule 9011, the burden was on Mr. Ure and the Ure Firm to present contrary evidence of at least equal weight. They have not done so.

Again, the tentative ruling is that this Court should not impose any sanctions for any alleged misconduct in the HDA Trucking Bankruptcy Case. But the apparent violations of Rule 9011 in that case establish a pattern that calls into question any allegedly similar conduct in the instant case.

(v) It is premature for this Court to determine whether the filing of the instant bankruptcy case, or how it has been prosecuted, is sanctionable under Rule 9011

On the one hand, the facts discussed above are evidence that Mr. Ure and the Ure Firm have participated in efforts to frustrate Maxim's exercise of its remedies, and have done so using tactics that appear to violate Rule 9011. It is possible that the transfer of a fractional interest to Debtor, and the filing of the instant bankruptcy case, are part of that scheme and are sanctionable.

On the other hand, it is also possible that the transfer of a fractional interest to Debtor was nothing more than an attempt retroactively to "unscramble the eggs" and have the record title to the Hedges Property reflect what Mr. Sargsyan, the Chakrians, and other affiliates all had intended to be the reality of their financial relationships. True, Mr. Ure and the Ure Firm have had an opportunity to present any such explanation, with supporting evidence, and they have failed to do so. But this Court is wary of imposing sanctions without providing them with an opportunity to explain why they did not offer an explanation in their opposition papers, and why they should be granted an opportunity to do so now.

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In addition, depending on how this instant bankruptcy case progresses, it may become more apparent over time whether there is a reasonable possibility of a successful reorganization within a reasonable time, and other factors that might bear on whether this case was or was not filed in good faith. It is also possible that Debtor will obtain refinancing and pay Maxim in full, or that some other developments in this case will bear on issues such as whether Maxim has suffered any un-reimbursed expenses, all of which may be relevant to its sanctions motion.

For all of these reasons the tentative ruling is that it is premature for this Court to determine any sanctions issues, and the tentative ruling is to take Maxim's sanctions motion off calendar, and determine at a future status conference when it should be put back on calendar. Meanwhile, the tentative ruling is that no further briefing on the sanctions issues will be accepted or considered absent further order of this Court.

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).

(b) Procedures Order: dkt.9 (timely served, dkt.44)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 10/15/19 at 1:00 p.m., *brief* status report due 10/4/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

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What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/26/19 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/26/19 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status

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Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

NAMR1726 LLC

Represented By
Thomas B Ure

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2:19-21521 Tatung Company of America, Inc.

Chapter 11

#20.00 Cont'd hrg re: Debtor's emergency motion for entry of an interim order, pending a final hearing authorizing the debtor to use cash collateral fr. 10/2/19, 10/15/19

Docket 5

Tentative Ruling:

Tentative Ruling for 10/29/19:

Please see the tentative ruling for the status conference (calendar no. 21, 10/29/19 at 2:00 p.m.)

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference (calendar no. 4, 10/15/19 at 2:00 p.m.)

[PRIOR TENTATIVE RULING OMITTED]

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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2:19-21521 Tatung Company of America, Inc.

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#21.00 Cont'd status conference re: Chapter 11 case
fr. 10/2/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

(a) Cash collateral motion (dkt. 5)

Grant on a further interim basis on the same terms and conditions as previously ordered (dkt.37), except for the revised budget (dkt.80, Ex.A) in place of the existing budget (dkt.8, Ex.1, at PDF p.19), with a final hearing on 12/10/19 at 1:00 p.m.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: 1/17/20 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt.18 (timely served, dkt. 25)

(c) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 11/5/19 at 1:00 p.m., to be concurrent with other matters in this case. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... **Tatung Company of America, Inc.**

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

Appearances are not required on 10/15/19.

(1) Current issues

(a) Utility motion (dkt. 3)

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Cash collateral motion (dkt. 5)

Grant on a further interim basis on the same terms and conditions as previously ordered (dkt.37) with a further interim hearing on 10/29/19 at 2:00 p.m.

(2) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 2:00 p.m. Case status report on Local Form F 2081-1.1.STATUS.RPT due 10/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Tatung Company of America, Inc.

Chapter 11

Tentative Ruling for 10/2/19:

Appearances required. The parties are directed to address whether there was adequate notice of this hearing, and the merits of each motion, as set forth below.

(1) Notice of this hearing

Debtor must address whether the proof of service of the motion papers (the "POS," dkt.21) complies with this Court's order shortening time ("OST," dkt.10), or due process. The OST provides that the deadline for "**RECEIPT**" of written notice of this hearing/a copy of the OST is **10/1/19 at noon**. *Id.* (emphasis in original). In two ways, this Court questions whether the POS complies with this direction.

First, the POS only appears to assert that envelopes were dropped off with an (unspecified) "Overnight Mail" carrier on 10/1/19, which would mean that those envelopes would not be received until **10/2/19** at the earliest, possibly just shortly before the hearing or even after the hearing.

Second, this Court questions whether delivery really was "overnight" to Taiwan, South Korea, China, and other overseas destinations.

(2) Merits of each motion

If the foregoing notice issue is adequately addressed, the tentative rulings are as follows.

(a) Payroll motion (dkt. 2)

Grant on a final basis, subject to any opposition at the hearing, and subject to authorization to use cash collateral to make payroll (see below).

(b) Cash management motion (dkt.4)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing at the same time as the continued status conference (see below).

(c) Cash collateral motion (dkt.5)

Debtor's budget (dkt.8, Ex.1) lacks historical context. Are the proposed expenditures and projected receipts in line with historical experience? Is it typical for Debtor's cash position to fluctuate so substantially from week to week? Are the goods that Debtor anticipates selling in keeping with Debtor's

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Chapter 11

historical lines of business, and with existing customers, or is Debtor projecting the replacement of some past lines of business with new lines?

Subject to (i) adequate resolution of the foregoing, (ii) any opposition at the hearing, and (iii) the conditions set forth in calendar no. 3 (on 10/2/19 at 2:00 p.m.), the tentative ruling is to grant this motion on an interim basis, with a further interim hearing at the same time as the continued status conference (see below).

(d) Notice of continued hearings

The tentative ruling is to set a deadline of 10/3/19 for Debtor to file and serve via U.S. mail a notice of the continued hearings.

(e) Proposed orders

This Court anticipates filing a "Memorialization of Tentative Rulings." Debtor is directed to lodge proposed orders that reference that document and incorporate the tentative rulings as final rulings, except as they may be modified at the hearing. See LBR 9021-1(b)(1)(B).

(3) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/15/19 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Tatung Company of America, Inc.

Chapter 11

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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2:19-21521 Tatung Company of America, Inc.

Chapter 11

#21.10 Hrg re: Emergency Motion For Entry
Of An Order Limiting Notice

Docket 85

Tentative Ruling:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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2:19-21521 Tatung Company of America, Inc.

Chapter 11

#21.20 Hrg re: Debtor's Emergency Motion For Approval Of
Stipulation By And Between Debtor And HP Inc

Docket 83

Tentative Ruling:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 7

#22.00 Hrg re: Motion to Withdraw as Attorney of Record
For Debtors and Debtors in Possession

Docket 146

*** VACATED *** REASON: Withdrawn (dkt.155) (after amendment,
dkt.146, 147)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Movant(s):

A.O.E Law Associates, APC

Represented By
Anthony Obehi Egbase

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 7

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#23.00 Hrg re: Motion to Withdraw as Attorney of Record
For Debtors and Debtors in Possession

Docket 74

Tentative Ruling:

Please see the tentative ruling for the main case status conference (cal. no. 25, 10/29/19 at 1:00 p.m.).

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase
Cliff Schneider

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase
Cliff Schneider

Beta Alpha Holdings, LLC

Pro Se

Olesegun Adenowo

Pro Se

1518 WATERS AVENUE TRUST,

Pro Se

619 WEST GLADSTONE STREET

Pro Se

2551 YORKSHIRE WAY TRUST,

Pro Se

1580 W. 2ND STREET TRUST,

Pro Se

DOES 1 through 100, inclusive

Pro Se

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CONT... Finnian Osakpamwan Ebuehi

Chapter 7

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

Movant(s):

A.O.E. Law & Associates

Represented By
Anthony Obehi Egbase

Plaintiff(s):

Poser Investments, Inc.

Represented By
Joseph P Buchman
Richard J Reynolds
Rafael R Garcia-Salgado

Trustee(s):

Peter J Mastan (TR)

Pro Se

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2:18-20704 Finnian Osakpamwan Ebuehi

Chapter 7

Adv#: 2:18-01431 Poser Investments, Inc. v. Ebuehi et al

#24.00 Cont'd Status Conference re: Removal
fr. 2/5/19, 4/9/19; 04/30/19, 05/21/19, 06/04/19,
7/2/19, 8/20/19, 9/24/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Please see the tentative ruling for the main case status conference (cal. no. 25, 10/29/19 at 1:00 p.m.).

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the main case status conference (cal. no. 21, 10/15/19 at 1:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 18, 9/24/19 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

Defendant(s):

Finnian Ebuehi

Represented By
Anthony Obehi Egbase
Cliff Schneider

Elizabeth Ebuehi

Represented By
Anthony Obehi Egbase
Cliff Schneider

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CONT... Finnian Osakpamwan Ebuehi

Chapter 7

Beta Alpha Holdings, LLC	Pro Se
Olesegun Adenowo	Pro Se
1518 WATERS AVENUE TRUST,	Pro Se
619 WEST GLADSTONE STREET	Pro Se
2551 YORKSHIRE WAY TRUST,	Pro Se
1580 W. 2ND STREET TRUST,	Pro Se
DOES 1 through 100, inclusive	Pro Se

Joint Debtor(s):

Elizabeth Olohirere Ebuehi	Represented By Anthony Obehi Egbase
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Plaintiff(s):

Poser Investments, Inc.	Represented By Joseph P Buchman Richard J Reynolds Rafael R Garcia-Salgado
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Trustee(s):

Peter J Mastan (TR)	Pro Se
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2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 7

#25.00 **[Converted to chapter 7 on 10/18/19]**

Cont'd Status Conference re: Chapter 11 Case
fr. 11/6/18, 12/18/18, 1/29/19, 2/26/19, 4/9/19;
04/30/19, 05/21/19, 06/04/19, 7/2/19, 8/20/19,
9/24/19, 10/15/19

Docket 26

Tentative Ruling:

Tentative Ruling for 10/29/19:
Appearances are not required

(1) Current issues.

(a) AOE Motion to withdraw (Adv. No. 2:18-ap-01431-NB, adv.dkt.74)

Grant. In addition, this Court notes that, given the conversion of this case to chapter 7, Debtors' claims in the adversary no longer can be prosecuted by Debtors - the Chapter 7 Trustee has exclusive standing to prosecute those claims. AOE is directed, no later than 10/31/19, to apprise Debtors' appellate counsel of that fact.

Proposed order: AOE is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed as a voluntary chapter 11 case on 9/12/18 and converted to chapter 7 on 10/15/19 (memorialized in this Court's written order entered on 10/18/19, dkt.161).

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conferences N/A (in this converted case, it does not appear necessary to set any further status conferences at this time).

If appearances are not required at the start of this tentative ruling but you

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CONT... **Finnian Osakpamwan Ebuehi and Elizabeth Olohirere** Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:
Appearances are not required

(1) Current issues.

(a) AOE Fee Application (dkt. 134, 145)

Grant in part, and award **\$16,345** of the requested \$19,345 in fees, and \$0 in expenses. The tentative ruling is to disallow \$3,000 of the time spent on motions for setting property values (dkt.134, p.9:9-12) because that time has not been sufficiently justified (as explained at prior hearings).

Proposed order: AOE is directed to lodge a proposed order via LOU within 7 days after the hearing date, and include a copy of the foregoing language from this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing if this tentative ruling is properly contested. See LBR 9021-1(b)(1)(B).

(b) Poser Investments, Inc. ("Poser") v. Ebuehi et al. (Adv. No. 2:18-ap-01431-NB), Motion for Attorney's Fees ("Poser Fee Motion," adv. dkt. 63), and Relief From Stay Motion ("R/S Motion," dkt.137)

The parties should be prepared to address whether attorney fees incurred in matters that were pending before different Judges should be determined by those Judges (*i.e.*, the State Court Judge who was presiding over this action before it was removed, and the Bankruptcy Court Judge who was presiding over Plaintiffs/Debtors' prior bankruptcy case, no. 2:18-bk-16992-RK). Put differently, the parties are directed to address whether this Bankruptcy Court (i) lacks jurisdiction and authority to determine what attorneys fees to award for litigation that occurred when this matter was pending before other Judges, or (ii) should defer to those other Judges under principles of comity, abstention, or similar doctrines.

The tentative ruling is that, notwithstanding the foregoing questions,

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Chapter 7

this Bankruptcy Court has jurisdiction and authority to determine the allowability of all of the requested attorney fees, because the removed action is currently pending in this Bankruptcy Court. The tentative ruling is that it would be an unwarranted imposition on other Judges to have them address fractional pieces of the requested compensation, especially when the parties' disputes did not go to trial and this Bankruptcy Court appears to be in at least as good a position to review time spent on pretrial preparation and other matters. In addition, Plaintiffs/Debtors have not filed any opposition papers, so any contrary arguments are waived and forfeited.

On the merits of the requested attorney fees, this Bankruptcy Court has carefully reviewed the motion papers including the daily time records. The tentative ruling is to allow all fees requested in the Poser Fee Motion except the following apparently duplicative time entries: (A) on 8/30/18 Ms. Gomez has several entries with identical or nearly identical text (dkt.63, Ex.2, p.26), and the tentative ruling is to disallow 0.3 hours (a reduction of \$40.50); and (B) on 4/30/19 Mr. Reynolds has two entries for appearing at a hearing on the motion for summary judgment (one for 5.1 hours and another for 5.6 hours, including other tasks) (dkt.63, Ex.2, p.31), and the tentative ruling is to disallow 5.1 hours (a reduction of \$2,244.00). That amounts to a total reduction of \$2,284.50 (\$2,244.00+\$40.50 = \$2,284.50). In addition, counsel are cautioned that some time entries reflect "lumping" of multiple tasks without a breakdown of time spent on each discrete task, but the tentative ruling is not to impose any reduction on that basis.

Based on the foregoing, the tentative ruling is to award fees of **\$182,836.00** (\$185,120.50-\$2,284.50 = \$182,836.00) and \$0 expenses. That dollar amount must be added to Poser's lien against Debtors' properties. See Findings/Conclusions (adv.dkt.47) *and* Judgement (adv.dkt.56).

In addition, the tentative ruling is to grant Defendant Poser's R/S Motion (dkt.137) so that it may return to the Federal District Court (the court that issued the underlying judgment on which Poser's liens are founded) and move to have its costs of enforcing that Court's judgment, including its attorney fees, added to the judgment. In addition, the tentative ruling is to grant Poser's request that such relief from the automatic stay be binding and effective in any future bankruptcy case, no matter who the debtor may be ("*in rem*" relief), subject to the following limitations.

The tentative ruling is that this Court may grant such *in rem* relief pursuant to 11 U.S.C. 362(d)(4), because Poser is a creditor whose claim is

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Chapter 7

secured by an interest in real property, and the filing of the present bankruptcy petition was part of a scheme to delay, hinder, or defraud creditors that involved unauthorized transfers (which Debtors subsequently purported to unwind, but which caused Poser considerable additional expense). 11 U.S.C. 362(d)(4)(A). Alternatively, that scheme involved multiple bankruptcy filings (Case Nos. 2:18-bk-16992-RK and 2:18-bk-20704-NB). 11 U.S.C. 362(d)(4)(B). Alternatively, the tentative ruling is that *in rem* relief is warranted pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017).

The tentative ruling is that any such relief will be subject to the following limitations, to be added to the proposed order (dkt.137, Exhibit):

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within 180 days after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case based upon changed circumstances or for good cause shown, after notice and a hearing.

For the avoidance of doubt, any acts by Poser Investment, Inc. to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Proposed orders: Based on the foregoing tentative rulings on the Poser Fee Motion and the R/S Motion, Poser is directed to lodge proposed orders via LOU within 7 days after the hearing date, and include a copy of the foregoing language from this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing if this tentative ruling is properly contested. See LBR 9021-1(b)(1)(B).

(c) Order to Show Cause ("OSC") re Conversion, Dismissal or Appointment of Chapter 11 Trustee (dkt. 140, 144)

The tentative ruling is to convert this case to chapter 7 for the reasons stated in the OSC.

Proposed order: Poser is directed to lodge a proposed order via LOU within 7 days after the hearing date, subject to any changes ordered at the hearing if this tentative ruling is properly contested.

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See LBR 9021-1(b)(1)(B).

Chapter 7

- (2) Deadlines/dates. This case was filed on 9/12/18.
- (a) Bar date: 1/11/19 (timely served, dkt. 59).
 - (b) Plan/Disclosure Statement*: N/A
 - (c) Continued status conferences (bankruptcy case and Poser v. Ebuehi): 10/29/19 at 1:00 p.m. (concurrent with other matters on calendar) No status reports are required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:
Appearances are not required.

(1) Current issues. This Court has reviewed the Debtors' Status Report (dkt. 132) and the Response filed by Poser Investments, Inc. ("Poser") (dkt. 133).

(a) OSC re Conversion, Dismissal or Appointment of Chapter 11 Trustee

At the start of this case, this Court issued an Order putting all parties on notice that "[w]ithout further notice this Court . . . may issue appropriate orders including on: . . . (b) case disposition (e.g., appointment of a trustee, conversion, dismissal" Dkt. 25, p. 1-2. That order was served on all parties in interest. Dkt.48.

Poser requests that this Court issue an Order to Show Cause ("OSC") directing the Debtor to appear and show cause why this Court should not convert, dismiss or appoint a chapter 11 trustee in this case. The tentative ruling is to issue such an OSC, and direct Poser to serve that OSC and a copy of Poser's response (dkt.133) on all creditors listed in the creditor mailing matrix, as a "belt and suspenders" notice to all interested parties that this Court is considering granting such relief. This Court will prepare the OSC with a hearing date of October 15, 2019 at 1:00 p.m. to be heard concurrently

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Chapter 7

with other matters on calendar for that date.

(b) Mediation

The tentative ruling is not to issue any further orders regarding mediation or other settlement efforts at this point - the parties remain free to engage in voluntary discussions.

(c) Poser Investments, Inc. v. Ebuehi et al. (Adv. No. 2:18-ap-01431-NB)

This Court has issued its decision, its order denying Debtors/Defendants' counterclaim motion, and its judgment in favor of Poser Investments, Inc. See adv.dkt.47, 55, 56. Debtors have stated their intention to appeal and Poser has stated its intention to file motions for relief from the automatic stay and for attorney fees and costs. The tentative ruling is to continue the status conference in the adversary proceeding to the same date and time as the continued status conference in the bankruptcy case.

(2) Deadlines/dates. This case was filed on 9/12/18.

(a) Bar date: 1/11/19 (timely served, dkt. 59).

(b) Plan/Disclosure Statement*: TBD

*Warning: special procedures apply (see order setting initial status conference).

(c) Continued status conferences (bankruptcy case and Poser v. Ebuehi): 10/15/19 at 1:00 p.m. No status reports are required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
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Chapter 7

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
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Los Angeles
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2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 7

#1.00 Hrg re: Chapter 7 trustee's motion for order: (1) Authorizing sale of estate's right, title and interest real property; (2) Approving overbid procedure; (3) Approving payment of commissions; (4) Finding purchaser; and (5) Waiving stay under rule 6004(h)

Docket 501

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 3, 10/29/19 at 2:00 p.m.).

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

Movant(s):

Rosendo Gonzalez (TR)

Represented By
Timothy J Yoo
Carmela Pagay

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Timothy J Yoo
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

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2:00 PM

2:17-22660 Yuichiro Sakurai and Akemi Sakurai

Chapter 7

#2.00 Cont'd hrg re: Final Fee Application for Approval of Professional Compensation for Legal Services Rendered and Reimbursement of Expenses Incurred by Debtor's Counsel, Nicholas W Gebelt
Period: 10/16/2017 to 4/30/2019
fr. 05/21/19, 7/2/19, 9/17/19

Docket 431

*** VACATED *** REASON: Matter decided by order entered 10/9/19
(dkt. 508)

Tentative Ruling:

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

Movant(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt
Nicholas W Gebelt
Nicholas W Gebelt

Akemi Sakurai

Represented By
Nicholas W Gebelt
Nicholas W Gebelt

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Timothy J Yoo
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#3.00 Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18,
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19, 5/7/19, 05/21/19,
7/2/19, 9/17/19

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 10/29/19:

Appearances required for the *Sakurai* case and *RS Adversary Proceeding* but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). No appearances required for the *Checkmate* case in view of the dismissal order entered 10/28/2019 (Case No. 2:17-bk-22648-NB, dkt. 349).

(1) Current Issues

(a) Status of these cases and related proceeding

The following issues involve the following related cases and related proceeding: *In re Yuichiro and Akemi Sakurai* (Case No. 2:17-bk-22660-NB, filed 10/16/17) ("Sakurai"), *In re Checkmate King Co., LTD* ("Checkmate") (Case No. 2:17-bk-22648-NB, filed 10/16/17), and *Checkmate v. Radiology Solutions Corp.* (Case No. 2:18-ap-01062-NB) (the "RS Adversary Proceeding"). On 6/13/19 the Sakurai and Checkmate cases were converted to chapter 7. See Sakurai dkt. 465, Checkmate dkt. 329.

The Chapter 7 Trustee should be prepared to update this Court on the status of the Sakurai case, including whether this Court should set a continued status conferences or take this matter off calendar.

(b) The RS Adversary Proceeding is dismissed as moot

When a bankruptcy case is dismissed, the Bankruptcy Court should determine whether or not it retains jurisdiction over any pending adversary proceeding. See *In re Carraher*, 971 F.2d 327, 328 (9th Cir. 1992) ("...

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where a federal district court dismisses federal claims, the court must consider economy, convenience, fairness and comity in deciding whether to retain jurisdiction over pendant state claims.") (internal citations omitted); *In re Casamont Investors, Ltd.*, 196 B.R. 517, 522-26 (9th Cir. BAP 1996) (applying *Carraher* principles more broadly in bankruptcy matters).

This Court has considered the foregoing factors, and other facts and circumstances of this case. Of particular importance, the dismissal of the Checkmate case removes the claims from the estate so there would be no apparent benefit to creditors or the estate in keeping this litigation pending.

For these reasons, the tentative ruling is to dismiss the RS Adversary Proceeding. *The Court will prepare the order.*

(c) Sakurai Trustee's Sale Motion (Sakurai, dkt. 501, 502, 503), no opposition on file

The tentative ruling is to grant this sale motion, subject to overbids and, if any successful overbidder or backup bidder wishes to have a "good faith" finding (11 U.S.C. 363(m)), subject to declarations providing sufficient evidence of such good faith.

Proposed order: The Sakurai Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date reflecting the foregoing terms, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current Issues

(a) Status of these cases and related proceeding

The following issues involve the following related cases and related proceeding: *In re Yuichiro and Akemi Sakurai* (Case No. 2:17-bk-22660-NB, filed 10/16/17) ("Sakurai"), *In re Checkmate King Co., LTD* ("Checkmate") (Case No. 2:17-bk-22648-NB, filed 10/16/17), and *Checkmate v. Radiology Solutions Corp.* (Case No. 2:18-ap-01062-NB) (the "RS Adversary Proceeding"). On 6/13/19 the Sakurai and Checkmate cases were converted to chapter 7. See Sakurai dkt. 465, Checkmate dkt. 329.

The Chapter 7 Trustees should be prepared to update this Court on the status of the Sakurai and Checkmate cases and the RS Adversary Proceeding, including whether this Court should set continued status conferences or take these matters off calendar.

(b) Sakurai Trustee's Sale Motion (Sakurai, dkt. 501, 502, 503), no opposition on file

The tentative ruling is to grant this sale motion, subject to overbids and, if any successful overbidder or backup bidder wishes to have a "good faith" finding (11 U.S.C. 363(m)), subject to declarations providing sufficient evidence of such good faith.

Proposed order: The Sakurai Trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date reflecting the foregoing terms, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

This Court anticipates filing a written tentative ruling at a later time.

Appearances required but telephonic appearances are encouraged if

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advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Tentative Ruling for 7/2/19:
Appearances are not required

(1) Current Issues

(a) Status of these cases

The following issues involve both of these related cases: *In re Yichiro and Akemi Sakurai* (Case No. 2:17-bk-22660-NB, filed 10/16/17) and the *Checkmate* ("Checkmate") (Case No. 2:17-bk-22648-NB, filed 10/16/17). On 6/13/19 these cases were converted to chapter 7. See Sakurai dkt. 465, Checkmate dkt. 329. The meetings of creditors are scheduled for 8/7/19 and 7/24/19, respectively.

(b) Final Fee Application for the estates' Counsel (Mr. Gebelt, Checkmate, dkt. 249, 250, 253, 255, 257, 258, 261, 264, 269, 299, 328; and Mr. Aronson's firm, Sakurai, dkt. 343, 346, 352, 355, 356, 363, 367, 376, 448, 454, 456, 464)

This Court will issue a decision disallowing a substantial portion of the requested fees, chiefly concerning negotiation and drafting of the first two versions of a proposed plan and proposed disclosure statement, for the reason set forth below. The parties should be prepared to address, however, whether the chapter 11 administrative expenses are likely to be paid at all, now that the cases have been converted to chapter 7, and therefore whether the fee issues are moot, or should be deferred.

(i) Background: Checkmate had \$4.5 million of receivables that appeared very likely on their face to be nearly worthless

Checkmate's bankruptcy schedules listed \$43,177.70 that were 90 days old or less, and over \$4.5 million that were over 90 days old. See Checkmate Schedule A/B (Checkmate dkt.1), line 11, at PDF p.11. In fact, these receivables were far older than 90 days: they were "incurred in the one to two-year period prepetition." Sakurai dkt. 464, p.6:24.

This Court takes judicial notice, from hundreds if not thousands of bankruptcy cases, that receivables over 90 days typically are worth a fraction of their face amount, and often are worthless. Debtors later acknowledged, in

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their Disclosure Statement, that one of the immediate causes of Checkmate's bankruptcy (in addition to an impending trial with the Fresco Parties) was "Checkmate Debtor's inability to collect the [Radiology] receivables." Sakurai dkt. 177, Ex.H, Attachment, p.11:11-14 (PDF p.32).

Nevertheless, Checkmate claimed to be confident of collection, principally because the accounts were backed up by security interests. On even a superficial review, there was cold comfort in any purported security interests. Almost all of the receivables were from a single party: Radiology Solutions Corp. ("Radiology"). Checkmate alleged that it had advanced funds to Radiology to purchase used medical equipment manufactured by Siemens, for resale in India and other markets, and Checkmate purportedly took back a security interest in that medical equipment.

But Checkmate had only the word of Radiology and its principal, Mr. Fower, that most of the equipment had ever been purchased. See Sakurai dkt. 177, Ex.H, Attachment, p.22:10-13 (PDF p.43) ("Debtors have made progress by confirming with Seimens that [Radiology] bought at least some of the equipment") (emphasis added). In addition, Checkmate had only their word that the equipment had not already been sold to overseas purchasers or otherwise disposed of.

Checkmate had only vague and incomplete reports from Radiology about the purported location of unsold equipment. See *id.* ("the location of that equipment is not known" and "Debtors hope to soon be able to gain access to a warehouse in Anaheim, California, where 15 of the [49] machines are supposed to be located, and warehouses in Houston and New York where another 6 of the machines" are supposed to be located).

Checkmate also had only sloppy documentation or perfection of the purported security interest - e.g., (A) it is unclear how enforceable any purported security interest would be, especially in India and other foreign locations; (B) Checkmate's invoices from Radiology did not cross-reference the security agreement; and (C) even at the outset, the identification and location of the equipment was incomplete. See adv. no. 2:18-ap-01062-NB, dkt. 12.

Despite all of these grounds for concern, Checkmate purported to be supremely confident that the Radiology receivables were collectible. Its bankruptcy schedules listed the portion of its receivables that were "doubtful or uncollectible accounts" as \$0. See Checkmate Schedule A/B (dkt.1), line 11, at PDF p.11.

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That was either a delusion or an intentional fabrication. In any event, when Debtors' counsel eventually was able to inspect the collateral stored at one location, nine months after the petition date, they found almost nothing:

On June 21, 2018, ... an inspection of Checkmate's collateral occurred. At that time, Applicant learned for the first time that the equipment supposedly purchased by Radiology was largely gone. [Sakurai dkt. 464, p.9:13-16.]

In what should not have been a surprise to anyone, it "turned out" that Checkmate "only collect[ed] \$9,000 from Radiology." [Sakurai dkt. 464, p.6, n.2.]

The point, of course, is not that with "20/20 hindsight" the receivables were worth next to nothing. The point is that from the outset there was every reason to believe that the receivables would be worth next to nothing.

(ii) Counsel for the estates had a duty not to incur substantial fees based on Debtors' unsupported delusions or misrepresentations

It is one thing for a debtor's principals to be deluded about the likely value of the debtor's assets. It is another thing for counsel to incur many tens of thousands of dollars in fees premised on such fantasies.

But that is what counsel did. The Radiology receivables were central to the negotiation and drafting of an original and first amended plan, and an original and first amended disclosure statement. Those documents included a complicated arrangement by which the Fresco Parties would receive a junior security interest in certain real properties and improvements, and payments out of the Radiology receivables that would be partially subordinated to claims of other non-priority unsecured creditors. As explained in the Disclosure Statement:

The collection of the RS [Radiology Solutions] receivables is addressed throughout this [Disclosure Statement]. Checkmate believes that it can retrieve and sell 21 of 49 machines, located mostly in Anaheim, California, with some in Houston, Texas and New York, New York. ... Checkmate estimates that during the 6 months post-confirmation ... it will receive and sell enough equipment to recoup \$700,000. During the next 9 months ... it anticipates receiving \$600,000 and during the following 9 months after that ... another \$500,000. [In other words, \$1.8 million total.] These are general estimates based on Checkmate recovering

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many, but not all, of the machines serving as its collateral. [Sakurai dkt. 177, Ex.H, Attachment, p.10:8-17 (PDF p.31)].

At this time (4/17/18, when the initial Disclosure Statement was filed, approximately 6 months after the petition date), Checkmate boasted that the Radiology receivables were estimated to be worth "approximately \$1,000,000" more in chapter 11 than "if the case is converted to Chapter 7," because the Checkmate Debtor has made progress ... in locating the medical equipment" Sakurai dkt. 177, Ex.H, Attachment, p.10:23-25 (PDF p.31) (emphasis added). Of course, as noted above, the purported location of the equipment had not been verified. Three months later, when Debtors' counsel actually went to Anaheim to look at the collateral that purportedly was "locat[ed]" there, it turned out to be "largely gone." [Sakurai dkt. 464, p.9:13-16.]

Meanwhile, based on the foregoing highly speculative recovery of \$1.8 million, and before verifying the existence and value of the purported collateral, Debtors' counsel engaged in protracted negotiations with the Fresco Parties and Community Bank about the structure of the proposed plan. Debtors' counsel then drafted a Plan that promised to use the Radiology receivables in a fairly complex waterfall of distributions: first to pay attorney fees, then up to \$300,000 toward a schedule of payments to secured creditor Community Bank, then quarterly payments to non-priority unsecured creditors other than the Fresco Parties (Class 4A) until payment of 50% of such claims, and then pro-rata to the Fresco Parties (Class 4B) and to Class 4A (except in the event of liquidation). Sakurai dkt. 177, Ex.H, Attachment, p.5:-20 (PDF p.26 of 47) and p.8:8-20 (PDF p. 29).

All of this was completely wasted effort. So were the subsequent hearings, the next version of the plan and disclosure statement, and all the associated negotiations. These services were not "reasonably likely to benefit the debtor's estate" or "necessary" to the administration of the estate. Therefore they "shall not" be allowed. 11 U.S.C. 330(a)(4)(A)(ii).

The same conclusion is supported by other portions of the statute. Such a large amount of fees and services was not "necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of," the bankruptcy cases. 11 U.S.C. 330(a)(1)(3)(C). In addition, the large amount of time spent on such services is not "reasonable," or "commensurate with the complexity, importance, nature of the problem, issue, or task addressed." 11 U.S.C. 330(a)(3)(D).

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In sum, the fees at issue are not "reasonable compensation for actual, necessary services" 11 U.S.C. 330(a)(1)(A).

- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).
 - (b) Amended Joint Plan (dkt. 309): Confirmed (dkt. 365).
 - (c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases): 8/15/19 at 2:00 p.m. (no written status report required).
 - (d) Continued adversary proceeding status conference (Radiology/Fower): 10/15/19 at 2:00 p.m.

[TENTATIVE RULINGS FOR INTERIM HEARINGS OMITTED]

**Revised Tentative Ruling for 1/15/19:
Appearances Required**

(1) Current Issues

(a) Final Fee Application for Debtor's Counsel (Checkmate, dkt. 249, 250, 253, 255, 257, 258, 261, 264; and Sakurai, dkt. 343, 346, 352, 355, 356, 363, 367)

The applications seek \$350,846.10 (Checkmate) and \$118,796.75 (Sakurai). This Court has allowed a total of \$300,000, and set this continued hearing to address the balance of \$169,642.85. See Interim Fee Orders (dkt. 261, Checkmate; dkt. 363, Sakurai).

The Fresco parties' objections note that this Court has on more than one occasion expressed grave concerns about whether these Debtors have adequately prosecuted these bankruptcy cases. Of course, this Court expects that counsel for the debtors would not in any way have participated in any attempts by these Debtors to mislead or obstruct creditors in these cases, but that is not the end of the inquiry.

On the one hand, when there are legitimate strategic or tactical reasons to chose among different courses of action, counsel for Debtors usually must act at their clients' direction, even if they might harbor some doubts about the efficacy of those choices. On the other hand, in addition to the ethical limits of what counsel may do at their clients' direction, counsel are only permitted "reasonable compensation for actual, necessary services" (11

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U.S.C. 330(a)(1)(A) (emphasis added)), and in determining what compensation is reasonable this Court "shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including [among other things] whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, [these bankruptcy cases]."

In these cases there are open questions about (i) Debtors' own acts and omissions, and whether Debtors were or were not engaging in a lack of diligent prosecution of these cases or other misconduct, (ii) whether Debtors, if deposed or examined at trial on those issues, will or will not assert advice of counsel, and (iii) whether, regardless of the foregoing issues, counsel for Debtors can satisfy the above-referenced statutory requirements. For all of these reasons, the tentative ruling is that the Fresco parties must have a reasonable period of time in which to conduct discovery to investigate Debtors' apparent failures to prosecute these cases or other misconduct, and whether, in view of the results of any such discovery, the compensation sought by counsel for Debtors is for "necessary" services and is "reasonable" in dollar amount, given all of the facts and circumstances.

Meanwhile, although this Court recognizes that all interim compensation may be revisited in connection with any final award, the question is how much to award on an interim basis, and whether any disbursed funds must be held in trust. The tentative ruling is to award another \$35,000 to counsel for Debtors, to be allocated pro rata in proportion to their outstanding fee requests, without requiring any portion of those funds to be held in trust, but also without prejudice to allowance of a greater or lesser final award.

The parties should be prepared to address the schedule for discovery on the issues outlined above. The tentative ruling is that a five month period is appropriate.

Then, in connection with any final fee award, or at such other time as this Court may later determine, the Fresco parties' objections can be revisited with the benefit of both (i) any discovery and (ii) any subsequent developments. For example, any additional disclosures and/or recoveries in the Fower/Radiology litigation might shed light on whether Debtors' and their counsel's strategies and tactics in dealing with those parties were appropriate at the time they were made. (This Court emphasizes that any subsequent developments would be relevant only to the extent they shed light on what

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was reasonable at the time the legal services were rendered - not for purposes of "20/20 hindsight.")

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: see above.

(c) Continued post-confirmation status conference (in the *Sakurai* and *Checkmate* cases, and the related RS/Fower adversary proceeding): 3/26/19 at 2:00 p.m. (status report due 3/19/19).

*Warning: special procedures apply (see order setting principal status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[TENTATIVE RULINGS FOR INTERIM HEARINGS OMITTED]

Tentative Ruling for 8/14/18:

Appearances required.

(1) Current issues.

(a) Fresco Parties' Motion to Convert Cases (dkt. 199 & Checkmate 2:17-bk-22648-NB, dkt. 185). The tentative ruling is to grant Fresco's motions to convert the Checkmate and Sakurai cases to chapter 7 for the following reasons.

(i) Gross mismanagement. The tentative finding of fact is that the debtors have grossly mismanaged their estates such that cause exists under 1112(b)(4)(B) to convert their cases. These cases have been pending for nearly a year, since 10/16/17, only very belated and half-hearted investigation or collection activity against Radiology Solutions and Fower - either using legal enforcement or practical steps. For example, at hearings

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on 11/14/17 and 1/30/18, the debtors maintained their belief that they could recover 100% on the dated receivables from Radiology Solutions, despite this Court's expressed concerns with the debtors' counsel regarding the apparent lack of collection activity based on Checkmate's failure to use the vast panoply of litigation tools available to them, including examinations under Rule 2004 (Fed. R. Bankr. P.), other discovery tools, remedies such as immediately seeking restraining orders and injunctions, and non-litigation approaches such as pressuring Radiology Solutions and Fower by reporting their defaults to Siemens or attempting to use pressure from other suppliers, customers, government regulators, or other persons. All of those avenues should have been explored vigorously, both prepetition and postpetition, and disclosed to parties in interest in these cases.

(ii) Other "cause." The debtors appear to have run through vast amounts of money to "purchase" equipment that does not exist, and yet as set forth above they have a very cavalier attitude toward attempting to engage in discovery or collection, while continuing to insist that they expected very substantial recoveries from those sources and/or from equipment (which turned out not to exist). The tentative finding of fact is that these circumstances show not just gross mismanagement but also that the debtors are hiding facts, or they are attempting to run out the clock on possible causes of action against them or transferees of their assets, or both.

(ii) The debtors' counter-argument about the best interests of creditors is not persuasive. The debtors argue that under their liquidation analysis (*Sakurai*, dkt. 240, PDF p. 14, *Checkmate*, dkt. 194, PDF p. 17) creditors will receive faster and better recoveries if the debtors are permitted to engage in a liquidation through chapter 11, rather than converting these cases to chapter 7. There are several problems with this argument.

First, this Court questions the debtors' projected recoveries in chapter 11. The debtors have been wildly inaccurate (or have intentionally hidden the truth) before, as set forth above. This Court has no faith in the Debtors to adequately disclose and maximize the value of their remaining assets, such as the house in Japan or purported interests in that house. Moreover, this Court is concerned about the debtor's management of whatever is recovered, such as what might happen to proceeds from the sale of real property. This Court recognizes that safeguards can be attempted; but safeguards can also be evaded, and the tentative ruling is that the simplest and best safeguard is to appoint a chapter 7 trustee.

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Second, this Court questions the debtor's projected lack of substantial recoveries in chapter 7. The tentative ruling is that the Fresco Parties have the better arguments regarding the potential benefits to unsecured creditors in a chapter 7 case (perhaps as much as 80% or more).

Third, supposing for the sake of discussion that the debtors were accurate in their projected recoveries in a liquidating chapter 11 case, and their comparison with projected recoveries in a chapter 7 case, that is not the only consideration. This Court must consider the integrity of the bankruptcy system. Given the debtors' gross mismanagement and this Court's concerns about the debtors' conduct (as described above) it appears that the only adequate safeguard of the integrity of the bankruptcy system is to convert these cases to chapter 7.

(iii) Evidentiary Objections (*Sakurai*, dkt. 233, 252) & (*Checkmate* 2:17-bk-22648-NB, dkt. 200, 204). The tentative ruling is that the history of this case and this Court's own admonishments to the debtors provides ample support for conversion, so this Court need not resolve the parties' respective evidentiary objections.

(iv) Proposed Orders. The Fresco Parties are directed to lodge proposed orders via this Court's LOU system within 7 days of the hearing.

(b) Application to Employ KW Commercial Inland Empire (dkt. 197) and Neiman Realty (dkt. 206). If this Court adopts the tentative ruling set forth above, the tentative ruling is to continue these hearings to the date and time set forth below to allow time for the chapter 7 trustees to weigh in.

(c) RS/Fower Adversary Proceeding (2:18-ap-01602-NB). The tentative ruling is to continue the status conference to the date and time stated below.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 58, 59).

(b) Amended Joint Plan/Amended Joint Disclosure Statement*: TBD based on the outcome of the Conversion Motions.

(c) Continued status conference: If this Court converts these cases to chapter 7, the tentative ruling is to continue the status conference in the *Sakurai* and *Checkmate* cases to 10/9/18 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Yuichiro Sakurai

Represented By
Nicholas W Gebelt

Joint Debtor(s):

Akemi Sakurai

Represented By
Nicholas W Gebelt

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Timothy J Yoo
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

2:00 PM

2:17-22648 Checkmate King Co., LTD

Chapter 7

#4.00 Cont'd hrg re: Final Fee Application for Approval of Professional Compensation for Legal Services for Robert M Aronson fr. 05/21/19, 7/2/19, 9/17/19

Docket 299

*** VACATED *** REASON: Matter decided by order entered 10/9/19 (dkt. 346)

Tentative Ruling:

Party Information

Debtor(s):

Checkmate King Co., LTD	Pro Se
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Movant(s):

Checkmate King Co., LTD	Pro Se
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Trustee(s):

Wesley H Avery (TR)	Pro Se
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2:17-22648 Checkmate King Co., LTD

Chapter 7

#5.00 [Case dismissed on 10/28/19]

Cont'd Status Conference re: Post Confirmation
fr. 11/14/17, 1/9/18, 1/23/18, 1/30/18, 02/13/18,
4/10/18, 5/8/18, 6/12/18, 6/19/18, 7/10/18, 08/14/18
9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/08/19,
01/15/19, 3/26/19, 4/9/19; 04/30/19, 5/7/19, 05/21/19,
7/2/19, 9/17/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/29/19:

Please see the tentative ruling for *Sakurai* status conference (calendar no. 3, 10/29/19 at 2:00 p.m.)

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 8, 9/17/19 at 2:00 p.m.).

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 13, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3.10, 5/7/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar

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no.4, 4/30/19 at 2:00 p.m.).

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Tentative Ruling for 4/9/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.3, 4/9/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no.7, 1/15/19 at 2:00 p.m.).

Tentative Ruling for 1/8/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 15, 1/8/19 at 2:00 p.m.).

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar

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no. 11, 9/4/18 at 2:00 p.m.).

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Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 7/10/18 at 2:00 p.m.)

Tentative Ruling for 6/19/18:

Please see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/19/18 at 2:00 p.m.).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current issues.

(a) Amended Joint Plan/Amended Joint Disclosure Statement (dkt. 175, 176).

These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 177), appear to be identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 186, 187, 188. Counsel are directed to alert this Court and the parties at the hearing if they are not.

For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 4, 6/12/18 at 2:00 p.m.).

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CONT... **Checkmate King Co., LTD**

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- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)
 - (b) Amended Joint Plan/Amended Joint Disclosure Statement* (dkt. 175, 176): At the status conference this Court will discuss appropriate deadlines.
 - (c) Continued status conference: 8/7/18 at 2:00 p.m. *Brief* written status report due 7/24/18.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:
Appearances required.

- (1) Current issues.
- (a) Joint Plan/Joint Disclosure Statement (dkt. 165, 166).
These documents, and the supporting declaration of Yuichiro Sakurai (dkt. 167). are substantially identical to the documents filed in the related bankruptcy case of debtors Yuichiro and Akemi Sakurai (the "Sakurais"). See Sakurai BK dkt. 176, 177, 178. For the tentative ruling regarding these documents, see the tentative ruling for the status conference in the Sakurais' bankruptcy case (calendar no. 2, 5/8/18 at 2:00 p.m.).
- (2) Deadlines/dates. This case was filed on 10/16/17.
- (a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)
 - (b) Joint Plan/Disclosure Statement* (dkt. 166, 167): The tentative ruling is to set a deadline of 5/22/18 to file (NOT SERVE - except on the U.S. Trustee) an amended joint plan and amended joint disclosure statement to address the foregoing issues.

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Chapter 7

(c) Continued status conference: 6/12/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/10/18:

Appearances are not required on 4/10/18.

(1) Current issues

(a) Motion for Relief from Stay (dkt. 57). In light of the proposed settlement with the Fresco Parties, the tentative ruling is to continue the hearing to be concurrent with the continued status conference (see below).

(b) Plan/Disclosure Statement. The tentative ruling is to conduct a combined hearing on the adequacy of the (forthcoming) disclosure statement and confirmation of the (forthcoming) plan to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/18/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 5/8/18 at 2:00 p.m. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required.

(1) Current issues

(a) Potential settlement with Fresco Parties. The parties must be prepared to address the status of their settlement negotiations and finalization of the draft settlement documents circulated 2/5/18, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (*Sakurai* case, no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, 124, and *Checkmate* case, no. 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113, 119, 122).

(b) Cash collateral & budget motions & stipulation (*Sakurai* dkt. 119, 122; *Checkmate* dkt. 114, 118, 119). Grant the cash collateral motion in the *Sakurai* case, subject to the same replacement liens and other terms and conditions as this Court's prior approvals of the use of cash collateral (see *Sakurai* case dkt. 43, 57); grant the budget motion in the *Sakurai* case; and approve the cash collateral stipulation in the *Checkmate* case on a final basis.

(d) Removed action (Adv. no. 2:17-ap-01558-NB), motions for stay and for remand (adv. dkt. 8, 10, 12, 13). The tentative ruling is that the motion for a stay pending determination by the District Court of the debtors' motion to withdraw the reference is moot, because the District Court has dismissed that motion. There is no tentative ruling on the motion to remand.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 3/20/18 at 1:00 p.m. Brief status

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Checkmate King Co., LTD
report due 3/6/18.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/30/18:

Appearances required.

(1) Current issues

(a) Turnover of Documents and Information etc. The parties must be prepared to address the debtors' turnover of documents and information, and all other issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, 114, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109, 112, 113).

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18 (order timely served. dkt. 63, 69)

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/13/18 at 1:00 p.m. Brief status report due 2/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Checkmate King Co., LTD

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Continue all matters scheduled for today in the *Sakurai* and *Checkmate* cases and related adversary proceeding to 1/30/18 at 2:00 p.m. in view of the apparent inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government. At the continued hearing the parties must be prepared to address all issues appropriate to raise at a status conference, including the issues in their recent status reports and related documents (case no. 2:17-bk-22660-NB, dkt. 87, 104, 105, and 2:17-bk-22648-NB, dkt. 90, 93, 100, 102, 104, 105, 106, 109). Appearances are not required on 1/23/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/9/18:

Appearances required by the debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

(a) Status Report (dkt. 90): The status report states that the debtor's business is dormant with respect to its financing of the purchase of used medical equipment. Where is Radiology Solutions storing the \$4.6M worth of financed equipment and does the debtor have a perfected security interest in the equipment?

(2) Deadlines/dates. This case was filed on 10/16/17.

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Chapter 7

- (a) Bar date: 1/17/18 (order timely served, dkt. 63, 69)
 - (b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 3/6/18 at 1:00 p.m. Brief status report due 2/20/18.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/14/17:

Appearances required by the debtor's principals and debtor's counsel.

Proposed orders: The debtor is directed to serve and lodge proposed orders on each motion listed below via LOU within 7 days after the hearing date.

(1) Current issues

- (a) Status Report (dkt. 37): The status report states that the debtor has no executory contracts. What about all the contracts with Radiology Solutions Inc./Corp. (whichever name is correct)?
- (b) Cash collateral motion (dkt.9): The debtor reports (dkt. 53, p.3) that it has reached a stipulation with Community Bank regarding the use of cash collateral, but as of the preparation of this tentative ruling no such stipulation appears on the docket. If there is no such stipulation, or if it does not moot the bank's opposition (dkt. 50), then the parties should be prepared to address the merits of that opposition. In addition, the parties should be prepared to address the objection of the Fresco parties (dkt. 49) and the debtor's response (dkt. 53).
- (c) Payroll motion (dkt. 6). The tentative ruling is to grant this motion on

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CONT... Checkmate King Co., LTD
a final basis.

Chapter 7

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: 1/17/18

(b) Plan/Disclosure Statement*: file by 4/16/18 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/19/17 at 1:00 p.m. Brief status report due 12/7/17.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/26/17:

Appearances required by counsel for the debtor.

(1) Current issues

(a) Proof of service (dkt. 28). Service appears to be in compliance with this court's orders shortening time, except that no addresses are listed. The following tentative rulings are contingent on filing a corrected proof of service, no later than the day after this hearing, listing those addresses.

(b) Cash collateral motion (dkt. 9). Subject to any opposition at the hearing, the tentative ruling is to grant this motion on the terms set forth in the separate tentative ruling on that motion.

(c) Payroll motion (dkt. 6). Subject to any opposition at the hearing, the tentative ruling is to grant this motion. *Proposed order*: Movant is directed to

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serve and lodge a proposed order via LOU within 7 days after the hearing date.

(2) Deadlines/dates. This case was filed on 10/16/17.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 11/14/17 at 1:00 p.m. (see order, dkt. 20).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Checkmate King Co., LTD

Pro Se

Trustee(s):

Wesley H Avery (TR)

Pro Se

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Chapter 11

Adv#: 2:18-01062 Checkmate King Co., LTD v. Radiology Solutions Corp. et al

#6.00 Cont'd Status Conference re: Complaint for (1) Breach of Contract; (2) Claim and Delivery; (3) Conversion; (4) Breach of Guaranty; (5) Fraud; (6) Preliminary Injunction; and (7) Constructive Trust fr. 5/8/18, 6/12/18, 6/19/18, 07/10/18, 08/14/18, 9/4/18, 9/18/18, 10/16/18, 11/6/18, 12/11/18, 01/15/19, 3/26/19, 05/21/19, 7/2/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 10/15/19:

Please see the tentative ruling for *Sakurai* status conference (calendar no. 3, 10/29/19 at 2:00 p.m.)

Tentative Ruling for 10/15/19:

Continue to 10/29/19 at 2:00 p.m. to be heard concurrently with other matters on calendar in related proceedings. No appearances required on 10/15/19.

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 13, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 19, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 3/26/19:

Please see the tentative ruling fro the *Sakurai* status conference (calendar no.8, 3/26/19 at 2:00 p.m.).

Tentative Ruling for 1/15/19:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 1/15/19 at 2:00 p.m.).

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Chapter 11

Tentative Ruling for 12/11/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 7, 12/11/18 at 2:00 p.m.).

Tentative Ruling for 11/6/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 21, 11/6/18 at 2:00 p.m.).

Tentative Ruling for 10/16/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 3, 10/16/18 at 2:00 p.m.).

Tentative Ruling for 9/18/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 18, 9/18/18 at 2:00 p.m.).

Tentative Ruling for 9/4/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 11, 9/4/18 at 2:00 p.m.).

Tentative Ruling for 8/14/18:

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 6, 8/14/18 at 2:00 p.m.).

Tentative Ruling for 7/10/18 (same as for 6/19/18):

Please see the tentative ruling for the *Sakurai* status conference (calendar no. 2, 7/10/18 at 2:00 p.m.).

Tentative Ruling for 6/12/18:

Appearances required.

(1) Current Issues.

(a) Joint Status Report and Notice of Continuances. This Court's 5/8/18 tentative ruling (see below) was not opposed, so it became this Court's actual ruling.

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CONT...

Checkmate King Co., LTD

Chapter 11

This Court directed (i) Checkmate to file and serve a notice of continuances attaching and incorporating by reference the deadlines in that tentative ruling by 5/7/18, and (ii) the parties to file a brief joint status report by 5/29/18. As of the preparation of this tentative ruling, none of the parties have complied. The parties are cautioned that failure to abide by applicable deadlines in future may result in adverse consequences.

(b) Motion for TRO & Claim and Delivery (adv. dkt. 10).

Plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") has filed a stipulation (adv. dkt. 30) with defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") for turnover of equipment. But Checkmate has not provided any evidence that it has relief from the automatic stay and consent of the Chapter 7 Trustee in the RS and Fower bankruptcy cases for such turnover (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA). The tentative ruling is to set a deadline of 6/19/18 for Checkmate to file a declaration attaching evidence sufficient to establish those things, and lodge a revised proposed order to approve the stipulation.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time. Continue to 7/17/18 at 2:00 p.m., *brief* joint status report due 7/3/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/8/18:

The tentative ruling is to continue all pending matters in this adversary proceeding to 6/12/18 at 2:00 p.m. for the reason stated below, with a brief joint status report due 5/29/18, and with a deadline of 5/7/18 for the plaintiff to file and serve a notice of continuances attaching and incorporating by reference the deadlines in this tentative ruling (assuming that this Court is not persuaded to depart from this tentative ruling). Appearances are not required

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CONT... Checkmate King Co., LTD
on 5/8/18.

Chapter 11

(1) Current Issues. This Court has reviewed the parties' status reports (adv. dkt. 24 & 26) and the other filed documents and records in this adversary proceeding.

(a) Motion for TRO & Claim and Delivery (adv. dkt. 10). At the 4/9/18 hearing on this motion, counsel for plaintiff/debtor Checkmate King Co., Ltd. ("Checkmate") apprised this Court of the bankruptcy filings of defendants Radiology Solutions Corp. ("RS") and George Fower ("Fower") (Case Nos. 8:18-bk-10585-TA and 8:18-bk-10583-TA) and requested a continuance of this hearing to allow time to obtain orders granting relief from stay with annulment. In the Joint status report (adv. dkt. 24), Checkmate states that the hearings on the relief from stay motions are scheduled for 5/15/18. Accordingly, the tentative ruling is to continue this motion to the date and time set forth at the start of this tentative ruling.

(b) Siemens Motion to Dismiss (adv. dkt. 27, the "MTD"). Defendant Siemens Medical Solutions USA, Inc. ("Siemens") has properly self-calendared its MTD for 6/12/18 at 11:00 a.m. Siemens anticipates that it may be voluntarily dismissed by plaintiff (see adv. dkt. 24), but if that does not occur then this Court anticipates that the MTD may take 15 minutes or more to hear. This Court's practice is that matters anticipated to take 15 minutes or more are heard on the 2:00 p.m. calendar (not available for self-calendaring, except by permission of this Court). Therefore the tentative ruling is to re-calendar the MTD from 11:00 a.m. to 2:00 p.m., which is concurrent with the other matters in this adversary proceeding that are on today's calendar.

(2) Deadlines: This adversary proceeding has been pending since 3/6/18. It is premature to set a discovery cutoff and other deadlines at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, October 29, 2019

Hearing Room 1545

2:00 PM

CONT... Checkmate King Co., LTD

Chapter 11

Party Information

Debtor(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

Defendant(s):

Radiology Solutions Corp.

Represented By
Vatche Chorbajian

George Tyler Fower

Represented By
Vatche Chorbajian

Siemens Medical Solutions USA Inc

Represented By
Marsha A Houston

Plaintiff(s):

Checkmate King Co., LTD

Represented By
Robert M Aronson

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 29, 2019

Hearing Room 1545

2:00 PM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#7.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 5/7/19, 05/21/19, 6/18/19, 7/30/19, 8/20/19, 9/17/19,
10/15/19

Docket 76

Tentative Ruling:

Tentative Ruling for 10/29/19:

Please see the tentative ruling for the status conference (calendar no. 8,
10/29/19 at 2:00 p.m.)

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference (calendar no. 11,
10/15/19 at 2:00 p.m.)

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the status conference (calendar no. 4,
9/17/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 7,
8/20/19 at 2:00 p.m.)

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5,
7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5,
6/18/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6,
5/21/19 at 2:00 p.m.)

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Tuesday, October 29, 2019

Hearing Room 1545

2:00 PM

CONT... Jackies Cookie Connection LLC

Chapter 11

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, October 29, 2019

Hearing Room 1545

2:00 PM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019, 5/7/19, 05/21/19, 6/18/19, 7/30/19,
8/20/19, 9/17/19, 10/15/19

Docket 5

Tentative Ruling:

Tentative Ruling for 10/29/19:

Appearances required.

(1) Current issues

(a) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "UST Motion", dkt. 76)

The parties should be prepared to address whether to grant the UST Motion and, if so, which remedy is in the best interests of creditors and the estate under 11 U.S.C. 1104 and 1112.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (not timely served but excused, dkt. 120)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: if this case is not dismissed or a continued status conference is not otherwise mooted, set a continued status conference for 12/10/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
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2:00 PM

CONT... Jackies Cookie Connection LLC

Chapter 11

Tentative Ruling for 10/15/19:

Appearances required.

(1) Current issues

(a) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "UST Motion", dkt. 76)

The parties should be prepared to address whether to grant the UST Motion and, if so, which remedy is in the best interests of creditors and the estate under 11 U.S.C. 1104 and 1112.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (not timely served but excused, dkt. 120)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 11/26/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

Appearances required.

(1) Current issues

(a) Debtor's sale motion (the "Sale Motion," dkt. 80), "Haloossim" Brief (dkt. 128), Debtor's reply (dkt. 129), Galant declaration re assets (dkt. 130), sale notice (dkt.131), "Haloossim" bid (dkt.133), Restructuring Advisors LLC bid (dkt.134)

The tentative ruling is to conduct an auction at the hearing and approve a sale of the specified assets, free and clear of liens and other

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2:00 PM

CONT... **Jackies Cookie Connection LLC**

Chapter 11

interests, including any successor liability, under 11 U.S.C. 363(b)&(f). Parties wishing a "good faith" finding (11 U.S.C. 363(m)) are referred to the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "UST Motion", dkt. 76)

The parties should be prepared to address whether to grant the UST Motion and, if so, which remedy is in the best interests of creditors and the estate under 11 U.S.C. 1104 and 1112.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (not timely served but excused, dkt. 120)

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 10/15/19 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:17-19687 Joe Emmanuel Castillo and Jina Veronica Castillo

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 31

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joe Emmanuel Castillo

Represented By
Nima S Vokshori

Joint Debtor(s):

Jina Veronica Castillo

Represented By
Nima S Vokshori

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

CONT... Joe Emmanuel Castillo and Jina Veronica Castillo

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:18-17007 Martha Milagros Noy-Taylor

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 45

***** VACATED *** REASON: Cont. to 12/10/19 at 10 a.m. per stipulation
(dkt. 48) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Martha Milagros Noy-Taylor

Represented By
Hale Andrew Antico

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:18-20485 Gerardo Gonzalez and Evelia Gonzalez

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 46

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Gerardo Gonzalez

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Evelia Gonzalez

Represented By
Ramiro Flores Munoz

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-12302 La Chanda Charlene Webb

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

CENLAR FSB

vs

DEBTOR

Docket 42

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

La Chanda Charlene Webb

Represented By
Hale Andrew Antico

Movant(s):

Cenlar FSB as servicer for

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-16515 Jeannette Casas

Chapter 13

#5.00 ***[CASE DISMISSED ON 10/28/19]***

Hrg re: Motion for relief from stay [RP]

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 32

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so

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10:00 AM

CONT... Jeannette Casas

Chapter 13

the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jeannette Casas

Represented By
Marcus Gomez

Movant(s):

Lakeview Loan Servicing, LLC, and

Represented By
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-16641 Consuelo Connie Cruz

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 34

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Consuelo Connie Cruz

Pro Se

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Daniel K Fujimoto
Caren J Castle
Julian T Cotton

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-19355 Rodrick Wayne Barnett

Chapter 7

#7.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(4) and (j): there is no automatic stay because (a) Debtor's prior cases (#2:19-bk-12690-SK, dismissed 4/23/19 and #2:19-bk-16492-NB, dismissed 7/22/19) were dismissed within one year before this case was filed (on 8/12/19), (b) those dismissals were not under 11 U.S.C. 707(b), and (c) no motion for an order imposing the automatic stay was sought, and the time for doing so has expired.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (2).

Debtor's opposition (dkt. 33) asserts that he has equity in the property, and the Movant is adequately protected by an equity cushion, but provides no evidence to refute the showing in the Motion papers. Debtor asserts that Movant lacks standing but the motion papers establish two alternative grounds for standing: Movant is the holder of the promissory note, and Movant is also the assignee of the deed of trust. See generally *In re Veal*,

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10:00 AM

CONT... **Rodrick Wayne Barnett**

Chapter 7

450 B.R. 897 (9th Cir. BAP 2011). Debtor argues that the property is necessary to an effective reorganization, but this is a liquidating chapter 7 case, not a reorganizing chapter 13 or 11 case, so that argument is unpersuasive. Debtor's remaining arguments are also unpersuasive.

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodrick Wayne Barnett

Pro Se

Movant(s):

The Bank of New York Mellon f/k/a

Represented By
Darren J Devlin

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-21504 Liat Talasazan

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

MICHAEL TREMBLAY, TRUSTEE
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below, with the additional condition that the same relief is granted as to all junior lienholders, as requested by Celtic Bank Corp. ("Celtic"). See dkt.16. The tentative ruling is to deny Celtic's request to dismiss this case with a 180-day bar because (a) the request is not included in a duly noticed motion, (b) there is insufficient evidence that Debtor's failure to prosecute this case is willful, and (c) in the event of another bankruptcy petition affecting this property there are remedies if Debtor is not proceeding in good faith and in compliance with the Bankruptcy Code and Rules (e.g., 11 U.S.C. 362(c)(3)). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so

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Hearing Room 1545

10:00 AM

CONT... Liat Talasazan

Chapter 13

the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Liat Talasazan

Pro Se

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:18-23422 Robert Lynn Scott

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]
[2014 Cadillac CTS]

USAA FEDERAL SAVINGS BANK
vs
DEBTOR

Docket 61

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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10:00 AM

CONT... Robert Lynn Scott

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Robert Lynn Scott

Represented By
Raymond Perez

Movant(s):

USAA Federal Savings Bank

Represented By
Bethany Wojtanowicz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-23422 Robert Lynn Scott

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]
[2011 Dodge Durango Citadel]

USAA FEDERAL SAVINGS BANK
vs
DEBTOR

Docket 62

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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Hearing Room 1545

10:00 AM

CONT... Robert Lynn Scott

Chapter 13

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Robert Lynn Scott

Represented By
Raymond Perez

Movant(s):

USAA Federal Savings Bank

Represented By
Bethany Wojtanowicz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-21838 Cesar Morales

Chapter 7

#11.00 Hrg re: Motion for relief from stay [UD]

MARK HILBERT
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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10:00 AM

CONT... Cesar Morales

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cesar Morales

Pro Se

Movant(s):

Mark Hilbert

Represented By
David S Hagen

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-21853 Artur Muradyan

Chapter 13

#12.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 10

Tentative Ruling:

Deny as moot and order that Debtor's counsel shall not charge any fees for this unnecessary motion. Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Docket for Debtor's prior Chapter 7 case (2:19-bk-17048-RK).

Reasons for denial:

The tentative ruling is to deny this motion as moot because Debtor's instant bankruptcy case is not governed by the provisions of 11 U.S.C. 362(c).

Debtor received a discharge in his prior Chapter 7 case on October 1, 2019. Chapter 7 case, dkt. 22. Debtor filed this Chapter 13 case on October 7, 2019.

Section 362(c)(3) provides in relevant part

if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceeding 1-year period but was dismissed ...

(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case; ...
[11 U.S.C. 362(c)(3)(A) (emphasis added)]

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CONT...

Artur Muradyan

Chapter 13

Becuae Debtor's prior bankruptcy case was not dismissed, the automatic stay in Debtor's current case will not terminate thirty days after filing. This motion to continue the automatic stay is therefore moot. To the extent that Debtor is seeking a comfort order confirming that the automatic stay is still in effect, this Court grants that request.

No fees on this matter, absent specific authorization

Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this 362(c)(3) objection), and to return any fees received on this matter, because (a) this motion was unnecessary, and (b) it is appropriate for this Court to impose this limitation *sua sponte* because in chapter 13 cases there is a danger that the client (Debtor) does not have a sufficient incentive to monitor counsel's services because all net income has to be paid anyway, regardless whether some of that net income goes to counsel instead of to creditors.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Artur Muradyan

Represented By

Aris Artounians

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/17/19

GOLDMAN SACHS BANK USA
vs
DEBTOR

Docket 25

***** VACATED *** REASON: The matter is scheduled to be heard at a
different time. See #11 at 1:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

Movant(s):

Goldman Sachs Bank USA

Represented By
Daniel H Slate
Anthony J Napolitano

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:16-24095 Jose Luis Lopez and Yolanda Castro

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/17/19

WELLS FARGO BANK, NA
VS
DEBTOR

Docket 42

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Jose Luis Lopez

Represented By
Matthew D. Resnik

Joint Debtor(s):

Yolanda Castro

Represented By
Matthew D. Resnik

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Kelsey X Luu
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:18-19352 Deborah Anne Fostrey

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/17/19

US BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 11/5/19 (same as for 9/17/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Deborah Anne Fostrey

Represented By
Thomas B Ure

Movant(s):

US Bank National Association, as

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT... Deborah Anne Fostrey

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-11932 Brad Leon Luff

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/15/19

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 44

***** VACATED *** REASON: APO (dkt. 48)**

Tentative Ruling:

Party Information

Debtor(s):

Brad Leon Luff

Represented By
Kevin T Simon

Movant(s):

Deutsche Bank National Trust

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-21507 Emily Capati Gaddi

Chapter 13

#17.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
stay as the Court Deems Appropriate

Docket 14

Tentative Ruling:

Deny for the reasons stated in the opposition (dkt.12) of The Estates Condo. Owners Assoc. Appearances required to address whether the case should be dismissed by this Court sua sponte, and whether to impose a 180-day bar against being a debtor in bankruptcy due to willful failure to appear in proper prosecution of this bankruptcy case. See 11 U.S.C. 109(g)(1).

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (other than motion papers): ___.

Reasons: The motion was not timely set for hearing in accordance with 11 U.S.C. 362(c)(3)(B) (providing that "on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30 day period [after the petition date, *i.e.*, _____ + 30 days]." (emphasis added)).

No attorney fees: This Court presumes that counsel for the debtor will not charge any fees for the time spent on this motion (because counsel knew or should have known of the earlier case and knew or should have known of the 30 day deadline). If counsel intends to charge any fees then the procedures must be followed to dispute this tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... Emily Capati Gaddi Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Emily Capati Gaddi	Pro Se
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Movant(s):

Emily Capati Gaddi	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
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Tuesday, November 5, 2019

Hearing Room 1545

10:00 AM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#18.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 09/10/19

JESUS QUINTERO
vs
DEBTOR

Docket 48

Tentative Ruling:

Tentative Ruling for 11/5/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but debtor should be prepared to address why this Court should not grant the remaining relief requested in the motion, subject to the usual limitations about not collecting any judgment from estate assets etc. (per this Court's local form order), given that debtor has had a "breathing spell" of over five months, since the petition date of 6/1/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Grant in part, deny in part, as provided below. Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes

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CONT... Unified Protective Services, Inc.

Chapter 11

ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Debtor's opposition (dkt. 60), and Movant's reply (dkt. 62).

(1) Debtor's untimely Opposition

In its reply, Movant asks this Court to disregard Debtor's Opposition because it was filed two days late. Dkt. 62, at p.2:5-12. Movant does not explain, however, what prejudice it suffered from the two day delay.

In addition, Movant may be partially responsible for Debtor's delay because the Motion was not served on Debtor itself, as well as Debtor's counsel ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). This Court recognizes that the double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

In addition, Movant served the Motion via United States mail on several parties in interest on 8/20/19, 21 days before the hearing. But Rule 9006(f) (Fed. R. Bankr. P.) adds an additional three days for service via U.S. mail, so it should have been mailed 24 days prior to the hearing. Therefore, if Movant argues for a strict application of the usual deadlines, this hearing should be continued anyway.

For each of these reasons, the tentative ruling is to overrule Movant's objection to consideration of the Opposition papers.

(2) Merits

The tentative ruling is (a) to grant Movant's request for an order confirming that the automatic stay does not protect the non-debtor defendants, and alternatively granting relief from the automatic stay for Movant to pursue its action(s) against such defendants, and (b) to modify the automatic stay to permit discovery to proceed in the non-bankruptcy action, and continue the hearing with respect to any remaining relief.

Legal standards

The Bankruptcy Court "shall grant relief from the stay" upon a showing

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CONT... **Unified Protective Services, Inc.**

Chapter 11

of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause' is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

(a) Non-Debtor defendants

In general, the automatic stay does not protect non-debtors, and any request to stay acts against non-debtors would require a separate adversary proceeding. See generally, *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th

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CONT... **Unified Protective Services, Inc.**

Chapter 11

Cir. 2007). That said, it can be difficult to determine whether the automatic stay applies when dealing with entities that may have intertwined finances with a debtor in bankruptcy, or when suing a related entity could be interpreted as an attempt to collect a claim against a debtor. See, e.g., 11 U.S.C. 362(a)(3) (staying any act to obtain possession of, or exercise control over, property of estate) and (a)(6) (staying any act to collect a prepetition claim against a debtor).

In this case neither Debtor nor any other party in interest has asserted that the automatic stay prevents Movant from suing the non-debtors. In addition, the record before this Court does not reflect facts and circumstances showing that the automatic stay would apply to suing the non-debtors. Accordingly the tentative ruling is that the automatic stay does not apply.

Alternatively, the tentative ruling is that if the stay were to apply for some reason, relief from the automatic stay would be appropriate to permit Movant to pursue its action(s) against the non-debtors. Of particular note, under the authorities cited above, any such acts involve third parties, and there has been no showing of interference with or prejudice to Debtor, other creditors, or the bankruptcy estate by permitting such acts. For example, the third parties themselves may have the expense of litigation, but there is no evidence that any such expense will constitute an administrative claim against the bankruptcy estate.

(b) Modify the stay to permit discovery, and continue hearing for other issues

Based on the present record, the tentative ruling is that the *Curtis* factors weigh in favor of granting relief to pursue discovery, but continuing the hearing as to any other relief. Most significantly:

As to the first *Curtis* factor (would relief result in partial or complete resolution of issues?), granting relief would result in a complete resolution of the issues, whereas denying relief would not, because the majority of the defendants in the state court action are not subject to this Court's jurisdiction, and the suit involves primarily issues of state labor law. Dkt. 48, Ex. 1.

As to the second *Curtis* factor (connection with or interference with the bankruptcy case) and the seventh *Curtis* factor (prejudice to other creditors/interested parties), Debtor has pointed primarily to the expense of litigation, and also to the need for a "breathing spell." Both Debtor and other parties in interest, including Movant, may be better able to assess the costs

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10:00 AM

CONT... Unified Protective Services, Inc.

Chapter 11

and benefits of litigation and/or settlement once Debtor presents a chapter 11 plan, or the outline of one: for example, litigating over a 1% dividend is very different from litigating over a 50% or 90% dividend. More generally, this Court takes judicial notice that this bankruptcy case was commenced by the filing of the bankruptcy petition on 6/1/19, so Debtor has had some time but not a very large amount of time to formulate its strategy for paying its creditors and proposing a chapter 11 plan, so for a limited additional time some breathing spell appears to be appropriate.

As to the tenth and eleventh *Curtis* factors (judicial economy, expeditious and economical determination of litigation, and whether the non-bankruptcy proceedings have progressed to trial-readiness), it is true that the non-bankruptcy action has not progressed to the point where the parties are prepared for trial, but Movant has established that that action has been pending since 9/16 and significant discovery and discovery-related motion practice has already occurred. Dkt. 48 at p.3, dkt. 62 at p.3. The State Court has familiarity with the action, and appears to be better situated to evaluate issues of California state labor law.

As for the twelfth *Curtis* factor (impact of the stay on the parties and the "balance of hurt"), Movant has argued that it would be prejudiced in opposing another defendant's motion for summary judgment without discovery from Debtor, and although Movant has not explained precisely how that is so, it is true that in general discovery from all parties in interest is helpful in opposing any motion for summary judgment. For those reasons it appears that discovery is appropriate, but for the moment the "balance of hurt" favors continuation of the automatic stay as to other acts against Debtor.

The tentative ruling is to issue an order granting limited relief as set forth above, and continue the hearing as to any other relief. The tentative continuance is to 11/5/19 at 10:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
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10:00 AM

CONT... Unified Protective Services, Inc.

Chapter 11

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

Movant(s):

Jesus Quintero

Represented By
Jennifer L Rusnak

**United States Bankruptcy Court
Central District of California
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Tuesday, November 5, 2019

Hearing Room 1545

11:00 AM

2:16-24010 Ricky Grayson

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Brad D. Krasnoff, Chapter 7 trustee]

Docket 159

Tentative Ruling:

Approve the Trustee's final report and allow the Trustee \$22,250 in fees and \$217.93 in expenses, for a total payment of \$22,467.93. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricky Grayson

Represented By
Yelena Gurevich

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel
Sonia Singh

**United States Bankruptcy Court
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Tuesday, November 5, 2019

Hearing Room 1545

11:00 AM

2:16-24010 Ricky Grayson

Chapter 7

#2.00 Hrg re: Second And Final Application For Award Of Compensation And Reimbursement Of Expenses [Filed by Danning, Gill, Diamond & Kollitz, LLP, As General Counsel For Chapter 7 Trustee]

Docket 156

Tentative Ruling:

Allow Danning Gill Diamond & Kollitz LLP \$12,782.50 in fees and \$966.69 in expenses for the fee period 10/1/2018 through 7/12/19, for a total of \$13,749.19. Approve final fees and costs totaling \$90,517 and \$3,871.78, respectively. Authorize payment of \$32,879.98 in fees (\$12,782.50 [current fee period] + \$20,097.48 [\$22,734.50 unpaid interim fees (dkt. 149) - \$2,637.02 voluntary reduction (dkt. 159, p.4)] and \$966.69 in expenses, for a total payment of \$33,846.67. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricky Grayson

Represented By
Yelena Gurevich

**United States Bankruptcy Court
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11:00 AM

CONT... Ricky Grayson

Chapter 7

Movant(s):

Danning, Gill, Diamond & Kollitz

Represented By
Eric P Israel

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel
Sonia Singh

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:16-24010 Ricky Grayson

Chapter 7

#3.00 Hrg re: Application for Compensation of Final Fees and/or Expenses
[Filed by LEA Accountancy, LLP Acc for Ch 7 Trustee]

Docket 154

Tentative Ruling:

Allow LEA Accountancy, LLP \$6,619 in fees and \$201.39 in expenses, for a total payment of \$6,820.39. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ricky Grayson

Represented By
Yelena Gurevich

Movant(s):

LEA Accountancy, LLP

Pro Se

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel
Sonia Singh

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Tuesday, November 5, 2019

Hearing Room 1545

11:00 AM

2:17-23651 Letitia Louise Wellington

Chapter 7

#4.00 Hrg re: Motion to Withdraw as Counsel of Record

Docket 173

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Debtor's counsel is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Movant(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Trustee(s):

Wesley H Avery (TR)

Represented By
Brett B Curlee

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

11:00 AM

2:19-19285 Myra I Solaris

Chapter 7

#5.00 Hrg re: Debtor's motion for voluntary
dismissal of chapter 7 case

Docket 10

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Myra I Solaris

Pro Se

Trustee(s):

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

11:00 AM

2:18-22426 Edmond Melamed

Chapter 11

Adv#: 2:19-01243 Mazakoda, Inc. v. Melamed et al

#6.00 Cont'd status conference re: Complaint
objecting to discharge
fr. 10/1/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/5/19:

Continue to 12/10/19 at 1:00 p.m. for the parties to obtain approval of their settlement. See Joint status report adv. dkt. 9; Main Case No. 2:18-bk-22426-NB, dkt. 116. The parties are directed to file a joint status report by 11/26/19. Appearances are not required on 11/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/1/19:

Continue to 11/5/19 at 11:00 a.m. for the parties to finalize and obtain approval (if required) of their settlement. See Stipulation to Extend the Deadline for Defendants' Response to Plaintiff's Complaint and related Order (adv. dkt. 4, 6). The parties are directed to file a joint status report by 10/29/19. Appearances are not required on 10/1/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

11:00 AM

CONT... Edmond Melamed

Chapter 11

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Defendant(s):

Edmond Melamed

Represented By
Michael Jay Berger

Rozita Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

Plaintiff(s):

Mazakoda, Inc.

Represented By
Scott E Gizer

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield
Adv#: 2:19-01070 Hickey v. Layfield

Chapter 7

#7.00 Cont'd Status Conference re: Complaint for: 1) Determination of Dischargeability of Debt [11 U.S.C. Section 523(a)(2)]; 2) Determination of Dischargeability of Debt [11 U.S.C. Section 523(a)(4)]; 3) Determination of Dischargeability of Debt [11 U.S.C. Section 523(a)(6)] fr. 05/21/19

Docket 1

***** VACATED *** REASON: Cont'd to 3/31/20 at 11:00 a.m.**

Tentative Ruling:

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip J Layfield

Pro Se

Plaintiff(s):

Fred A. Hickey

Represented By
Derrick F Coleman

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

Adv#: 2:19-01071 Richard M. Pachulski, Chapter 11 Trustee of the Ba v. Layfield

#8.00 Cont'd Status Conference re: Complaint to Determine the Non-Dischargeability of Certain Debts Owed by Philip James Layfield to Richard M. Pachulski, Chapter 11 Trustee of the Bankruptcy Estate of Layfield & Barrett, APC.
fr. 05/21/19

Docket 1

***** VACATED *** REASON: Cont'd to 3/31/2020 at 11:00 a.m. [dkt. 13]**

Tentative Ruling:

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Defendant(s):

Philip James Layfield

Pro Se

Plaintiff(s):

Richard M. Pachulski, Chapter 11

Represented By
James KT Hunter

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#1.00 Hrg re: Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d) (2) A Good Faith Determination, (3) Authority to Enter into a Construction Contract with LA Hillside Homes, Inc., for Completion of Construction of Residence on the Property, (4) Authority to Pay Debts Incurred by LA Hillside Homes for Work Performed and Material Supplied for Construction of the Residence, (5) Authority to Pay Debts in the Ordinary Course of Business and (6) Waiver of Stay

Docket 35

Tentative Ruling:

Please see tentative ruling for status conference (calendar no. 2, 11/5/19 at 1:00 p.m.).

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#1.10 Hrg re: Application to employ Danning, Gill,
Diamond & Kollitz, LLP as general bankruptcy
counsel

Docket 27

Tentative Ruling:

Please see tentative ruling for status conference (calendar no. 2, 11/5/19 at 1:00 p.m.).

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#2.00 Cont'd status conference re: Chapter 11 case
fr. 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/5/19:

Appearances required by proposed counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion for authority to obtain post-petition financing (dkt. 35, 36, 37) (the "Finance Motion"); NVSI, Inc.'s opposition & evidentiary objections (dkt. 46, 47); Debtor's reply (dkt. 53-57)

Grant, on the terms set forth in the reply (dkt.53). Overrule the evidentiary objections of NVSI (dkt.47) to the Livingston decl. (dkt.35, pp.30-35), except to the limited extent set forth below. Specifically, overrule entirely (except as limitations conceded in Debtor's Response) the evidentiary objections to the following para./exhibits to the Livingston decl.:

7, 10, 14, 15, 18, 20, 22 & Ex.6, 25, 29, 30, 31 & Ex.3, 35, 36, 37;
and overrule the objections to the following paragraphs except as noted:

* 27, except as to what Mr. Livingston believes NVSI would agree to;

* 33, except as provided in Debtor's response (dkt.57, p.13:11-20);
and

* 17 & 23 (the testimony regarding settlement negotiations), as to which the tentative ruling is to admit it for the limited purposes set forth in the Response - rebuttal of NVSI's allegations as to Debtor's motives (see dkt.57,pp.6:17-27 & 9:8-19) - to the extent, if any, that such allegations are relevant.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling,

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

CONT...

9469 BEVERLY CREST LLC

Chapter 11

subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Application to employ Danning Gill Diamond & Kollitz, LLP (the "Firm") (dkt. 27); Statement of disinterestedness (dkt. 28); Supplemental declaration (dkt. 32); Order setting hearing on application (dkt. 44) (the "Order Setting Hearing"); 2d Supp. (dkt.58)

Continue to the same date and time as the continued status conference (see below), per the Firm's second supplement (dkt.58).

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (dkt. 29; timely served, dkt. 31).

(b) Procedures order: dkt. 11 (timely served, dkt. 24)

(c) Plan/Disclosure Statement*: file by 1/3/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 11/12/19 at 1:00 p.m., concurrent with other matters in this case. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Budget motion

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

CONT...

9469 BEVERLY CREST LLC

Chapter 11

Debtor's status report states that it has not filed a budget motion because it is not required by the presiding judge's procedures. Dkt. 23, p.3. Judge Bason's posted procedures (available at cacb.uscourts.gov) Section VII.G provide that budget motions are mandatory in all chapter 11 cases. The tentative ruling is to set a deadline of 9/30/19 to file and serve a budget motion.

(b) Settlement Discussions

The Debtor should be prepared to provide this Court with an update on the status of any settlement discussions with the existing lienholder.

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 1/3/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/12/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#3.00 Hrg re: Motion for order determining
value of collateral 1934-1936 Locust Avenue,
Long Beach, CA. 90806

Docket 95

Tentative Ruling:

Please see tentative ruling for status conference (calendar no. 4, 11/5/19 at 1:00 p.m.).

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By
Joanne P Sanchez
Anthony Obehi Egbase

Joint Debtor(s):

Angelica Soto Calva

Represented By
Joanne P Sanchez
Anthony Obehi Egbase

Movant(s):

Angel Rodriguez Lara

Represented By
Joanne P Sanchez
Anthony Obehi Egbase

Angelica Soto Calva

Represented By
Joanne P Sanchez
Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#4.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19, 8/20/19, 9/17/19, 10/1/19, 10/29/19

Docket 42

Tentative Ruling:

Tentative Ruling for 11/5/19:

Appearances required.

(1) Current issues

(a) Debtors' valuation motion (dkt. 95), no opposition is on file

The tentative ruling is to grant the valuation motion.

Proposed orders: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Conversion or dismissal

Debtors are directed to address why this case should not be converted or dismissed due to (1) the large amount of cash transactions (without receipts) (Sept. MOR, dkt.97, p.3) and (2) Debtors' negative ending balance as of 9/30/19 (*id.*, p.1).

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Procedures order: dkt. 41 (timely served, dkt. 46)

(c) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(w) Continued status conference: TBD at the status conference.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

CONT... **Angel Rodriguez Lara and Angelica Soto Calva** **Chapter 11**

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Continue to 11/5/19 at 1:00 p.m. to be concurrent with Debtors' valuation motion (dkt.95), at which time Debtors are directed to address why this case should not be converted or dismissed due to (1) the large amount of cash transactions (without receipts) (Sept. MOR, dkt.97, p.3) and (2) Debtors' negative ending balance as of 9/30/19 (*id.*, p.1). Appearances are not required on 10/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/1/19:

Appearances required.

(1) Current issues

(a) Retention of replacement counsel

At the hearing on 9/17/19, this Court denied Debtors' application to employ the Law Offices of Lionel Giron (see dkt. 83). Debtors should be prepared to address whether they have retained new counsel and what is the appropriate disposition of this case.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

CONT...

Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: TBD at the status conference.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed orders: Debtor is directed to lodge proposed orders on the following matters via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(1) Current issues

(a) Amended budget motion (dkt. 72)
Grant.

(b) Employment application, Law Offices of Lionel E. Giron (dkt. 50), United States Trustee's ("UST") opposition (dkt. 61), Mr. Giron's reply (dkt. 65), Mr. Giron's supplemental declaration (dkt. 73), and the UST's reply (dkt.76)

Deny. At the last hearing this Court set a deadline of 9/3/19 for supplemental declarations of Mr. Giron and Mr. Egbase, and as of the date of this tentative ruling, only the former has been filed, and that is insufficient for the reasons stated at the hearing and in the UST's reply. See dkt. 73, 76.

The parties should be prepared to address how Debtors will transition to new counsel.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

CONT... **Angel Rodriguez Lara and Angelica Soto Calva** **Chapter 11**

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

- (a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)
- (b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
- (c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By

Joanne P Sanchez

Anthony Obehi Egbase

Joint Debtor(s):

Angelica Soto Calva

Represented By

Joanne P Sanchez

Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#5.00 Hrg re: Browne George Ross LLP's third application for allowance and payment of interim compensation and reimbursement of expenses (October 1, 2017-August 31, 2019)

Docket 514

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 6, 11/5/19 at 1:00 p.m.)

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

Movant(s):

George Browne Ross

Represented By
Peter J Crosby

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16,
9/6/16, 11/29/16, 12/13/16, 02/28/17, 4/25/17,
5/23/17, 7/11/17, 8/22/17, 10/03/17, 1/23/18,
1/30/18, 3/20/18, 5/1/18, 11/6/18, 1/29/19, 2/26/19,
4/9/18, 5/21/19

Docket 7

Tentative Ruling:

Tentative Ruling for 11/5/19:

Continue as set forth below. Appearances are not required on 11/5/19.

(1) Current issues

(a) Browne George Ross LLP's Third Amended Interim Fee Application (dkt. 518)

Allow Brown George Ross LLP \$379,978.50 in fees and \$8,372.20 in expenses, for a total of \$388,350.70.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: TBD

(c) Continued status conference: 2/4/20 at 2:00 p.m. (per dkt.521);
brief Status Report due 1/21/20.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

CONT... Cloudbreak Entertainment, Inc.

Chapter 11

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1639 Calendar**

Tuesday, November 5, 2019

Hearing Room 1639

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#7.00 Hrg re: Application to Employ Levene, Neale, Bender, Yoo & Brill L.L.P.
as Bankruptcy Counsel

Docket 55

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 10,
11/5/19 at 1:00 p.m.)

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#8.00 Hrg re: Application to Employ E&W Consulting, LLC
as Financial Advisor to the Debtor

Docket 58

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 10,
11/5/19 at 1:00 p.m.)

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#9.00 Hrg re: Application to Employ Six Degrees Law Group
as Special Corporate Counsel

Docket 61

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 10,
11/5/19 at 1:00 p.m.)

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

Movant(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/2/19, 10/15/19, 10/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/5/19:

Appearances are not required on 11/5/19.

(1) Current issues

(a) Application to Employ Levene, Neale, Bender, Yoo & Brill LLP (dkt. 55, 56)

Grant, subject to the standard terms regarding section 327(a) employment in the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

(b) Application to Employ E&W Consulting, LLC ("E&W") (dkt. 58, 59)

Grant pursuant to 11 U.S.C. 327(a), except that (i) all matters relating to E&W's engagement, compensation and costs shall be resolved in this Bankruptcy Court, notwithstanding any provisions for arbitration, choice of venue, or the like, (ii) the purported waiver of conflicts on behalf of the bankruptcy estate or creditors (dkt.58, Ex.1, p.6, sections 12&13, at PDF pp.27-28) are ineffective (E&W shall be subject to the same obligations as any professional employed under 11 U.S.C. 327(a) to check for conflicts, establish ethical screens, etc.), and (iii) maximum 2 hours per day of non-working time (e.g., travel, or waiting for matter to be called) absent an adequate explanation.

(c) Application to Employ Six Degrees Law Group ("Six Degrees") (dkt. 61, 62)

Grant under 11 U.S.C. 327(e), subject to the the standard terms regarding section 327 employment in the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov). Regarding corporate governance in this chapter 11 bankruptcy case, Six Degrees is referred to *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

Proposed order: Debtor is directed to lodge proposed orders on each of the

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above matters via LOU within 7 days after the hearing date (and the proposed order for E&W should include the limitations set forth above). See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: 1/17/20 (Order dkt. 97, timely served, dkt.101).

(b) Procedures order: dkt.18 (timely served, dkt. 25)

(c) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 12/10/19 at 1:00 p.m., to be concurrent with other matters in this case. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

(a) Cash collateral motion (dkt. 5)

Grant on a further interim basis on the same terms and conditions as previously ordered (dkt.37), except for the revised budget (dkt.80, Ex.A) in place of the existing budget (dkt.8, Ex.1, at PDF p.19), with a final hearing on 12/10/19 at 1:00 p.m.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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- (2) Deadlines/dates. This case was filed on 9/30/19.
- (a) Bar date: 1/17/20 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Procedures order: dkt.18 (timely served, dkt. 25)
 - (c) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (d) Continued status conference: 11/5/19 at 1:00 p.m., to be concurrent with other matters in this case. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

Appearances are not required on 10/15/19.

- (1) Current issues
- (a) Utility motion (dkt. 3)
Grant.
Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).
 - (b) Cash collateral motion (dkt. 5)
Grant on a further interim basis on the same terms and conditions as previously ordered (dkt.37) with a further interim hearing on 10/29/19 at 2:00 p.m.
- (2) Deadlines/dates. This case was filed on 9/30/19.

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(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 2:00 p.m. Case status report on Local Form F 2081-1.1.STATUS.RPT due 10/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/19:

Appearances required. The parties are directed to address whether there was adequate notice of this hearing, and the merits of each motion, as set forth below.

(1) Notice of this hearing

Debtor must address whether the proof of service of the motion papers (the "POS," dkt.21) complies with this Court's order shortening time ("OST," dkt.10), or due process. The OST provides that the deadline for "**RECEIPT**" of written notice of this hearing/a copy of the OST is **10/1/19 at noon**. *Id.* (emphasis in original). In two ways, this Court questions whether the POS complies with this direction.

First, the POS only appears to assert that envelopes were dropped off with an (unspecified) "Overnight Mail" carrier on 10/1/19, which would mean that those envelopes would not be received until **10/2/19** at the earliest, possibly just shortly before the hearing or even after the hearing.

Second, this Court questions whether delivery really was "overnight" to Taiwan, South Korea, China, and other overseas

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destinations.

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(2) Merits of each motion

If the foregoing notice issue is adequately addressed, the tentative rulings are as follows.

(a) Payroll motion (dkt. 2)

Grant on a final basis, subject to any opposition at the hearing, and subject to authorization to use cash collateral to make payroll (see below).

(b) Cash management motion (dkt.4)

Grant on an interim basis, subject to any opposition at the hearing, with a final hearing at the same time as the continued status conference (see below).

(c) Cash collateral motion (dkt.5)

Debtor's budget (dkt.8, Ex.1) lacks historical context. Are the proposed expenditures and projected receipts in line with historical experience? Is it typical for Debtor's cash position to fluctuate so substantially from week to week? Are the goods that Debtor anticipates selling in keeping with Debtor's historical lines of business, and with existing customers, or is Debtor projecting the replacement of some past lines of business with new lines?

Subject to (i) adequate resolution of the foregoing, (ii) any opposition at the hearing, and (iii) the conditions set forth in calendar no. 3 (on 10/2/19 at 2:00 p.m.), the tentative ruling is to grant this motion on an interim basis, with a further interim hearing at the same time as the continued status conference (see below).

(d) Notice of continued hearings

The tentative ruling is to set a deadline of 10/3/19 for Debtor to file and serve via U.S. mail a notice of the continued hearings.

(e) Proposed orders

This Court anticipates filing a "Memorialization of Tentative Rulings." Debtor is directed to lodge proposed orders that reference that document and incorporate the tentative rulings as final rulings, except as they may be modified at the hearing. See LBR 9021-1(b)(1)(B).

(3) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of

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such forms) (DO NOT SERVE yet, except on the U.S. Trustee -
this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/15/19 at 2:00 p.m. No written
status report is required.

*Warning: special procedures apply (see order setting initial status
conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By

Ron Bender

Lindsey L Smith

Juliet Y Oh

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2:19-17410 South Street Brentwood, LLC

Chapter 11

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/17/19

GOLDMAN SACHS BANK USA
VS
DEBTOR

Docket 25

*** VACATED *** REASON: Continued per stipulation (dkt.53) and
order thereon

Tentative Ruling:

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

Movant(s):

Goldman Sachs Bank USA

Represented By
Daniel H Slate
Anthony J Napolitano

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2:19-17410 South Street Brentwood, LLC

Chapter 11

#12.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19, 10/29/19

Docket 4

Tentative Ruling:

Tentative Ruling for 11/5/19:

Appearances are not required on 11/5/19.

(1) Current issues

(a) Budget Motion (dkt. 30), Goldman Sachs Bank USA's (Goldman Sachs") opposition (dkt. 34), Stipulation re budget motion (dkt. 41, 42) ("Stipulation")

Grant, subject to the terms of the Stipulation.

Proposed orders: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(b) Goldman Sachs' Motion for relief from stay (dkt. 25, 26, 27, 28), debtor's opposition (dkt. 31), Goldman Sachs' reply (dkt. 32, 33), adequate protection order (dkt. 39), debtor's supplemental brief (dkt. 47), Goldman Sachs' supplemental reply (dkt. 59, 50, 51)

Continued to 12/2/19 at 10:00 a.m., per stipulation (dkt. 53) and order thereon.

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (dkt. 21; timely served, dkt. 23)

(b) Procedures order: dkt. 3 (timely served, dkt. 11)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/2/19 at 10:00 a.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... South Street Brentwood, LLC

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances are not required on 10/29/19.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (timely served, dkt.23).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/5/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

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(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

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2:19-22624 Sharyl Gwen Bloom

Chapter 11

#13.00 Status conference re: Chapter 11 case

Docket 8

Tentative Ruling:

Appearances required by counsel for the debtor (if any) and by the debtor(s) themselves.

(1) Current issues

(a) Why shouldn't this case be dismissed with a refiling bar?

Debtor should be prepared to address the issues identified in the Procedures Order (dkt. 7, pp. 2:23-28 & 3:1-18).

(2) Deadlines/dates. This case was filed on 10/25/19.

(a) Bar date: TBD

(b) Procedures order: dkt.7(As of the preparation of this tentative ruling, there is no evidence on the docket that Debtor served this order)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sharyl Gwen Bloom

Pro Se

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/5/19:

Continue this status conference as set forth below. Appearances are not required on 11/5/19.

(1) Current issues

This Court has reviewed the parties latest filed documents and is not aware of any issues that warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/10/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Schaefer Ambulance Service, Inc

Chapter 11

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#2.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 10/1/19

BRG ADAMS, LLC
vs
DEBTOR

Docket 37

Tentative Ruling:

Revised Tentative Ruling for 11/5/19:

Grant as provided below, in addition to the interim relief previously granted (dkt.55). Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Emergency motion to continue hearing (dkt. 40); order granting partial relief from stay (dkt. 55); debtor's opposition (dkt. 65); Movant's reply (dkt. 71); Movant's evidentiary objections (dkt. 72).

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate

The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any

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available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues

Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

In limiting the nonbankruptcy litigation as set forth above, this Bankruptcy Court emphasizes that it does not seek in any way to impinge on the authority of the Nonbankruptcy Courts presiding over the nonbankruptcy action. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage this bankruptcy case. Those obligations include taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and preserving the bankruptcy estate by placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). Cause can be established when abstention applies. *Id.*

The tentative ruling is that mandatory abstention does not apply at this time. Under 28 U.S.C. 1334(c)(2), abstention is mandatory if (1) the proceeding is based on a state law cause of action, (2) the proceeding is not a core proceeding, (3) the proceeding could not have been commenced in

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federal court absent the jurisdiction provided by 28 U.S.C. 1334, and (4) the proceeding has been commenced, and can be timely adjudicated, in a state forum of appropriate jurisdiction. The tentative ruling is that, although arbitration proceedings qualify under the fourth element (*see In re Porter-Hayden Co.*, 304 B.R. 725, 734-35 (Bankr. D. Md. 2004)), it is premature to determine whether the claims at issue are "core" because Movant still has time in which to determine whether or not it will file a proof of claim, which would be determinative regarding whether the litigation at issue is or is not "core." *See In re AWTR Liquidation, Inc.*, 547 B.R. 831 (Bankr. C.D. Cal. 2016) (Bason, J.).

But the tentative ruling is that discretionary abstention applies under 28 U.S.C. 1334(c)(1), and alternatively that "cause" exists to grant relief from the automatic stay under 11 U.S.C. 362(d)(1), under the factors applied by the Court of Appeals for the Ninth Circuit. *See Tucson Estates, Inc.*, 912 F.2d 1162 (applying factors from *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984)). *See also, e.g., In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559-60 (Bankr. C.D. Cal.2004).

Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to

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determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly, under the fourth *Curtis* factor (whether a specialized tribunal has been established to hear the action), the parties agreed to binding arbitration before the arbitrator, and this Bankruptcy Court does not typically review arbitration awards whereas the Superior Court does.

As to the remaining *Curtis* factors, Debtor has not established that they would weigh against granting the motion. For example, the first factor (would relief result in partial or complete resolution of the issues?), granting relief would result in complete resolution of the issues and the issues involve matters of state law that can be resolved expeditiously in the nonbankruptcy proceedings.

As to the second *Curtis* factor (connection with or interference with the bankruptcy case) and seventh *Curtis* factor (prejudice to other creditors/interested parties) completion of the arbitration proceeding and obtaining an order confirming or vacating the award from the Superior Court will not interfere with this case, but to the contrary it is essential to this bankruptcy case to reach a final determination as to these claims, and this Bankruptcy Court is not better situated than the Superior Court to review the arbitration award.

As to the eleventh *Curtis* factor (the impact of the stay on the parties and the "balance of hurt"), Debtor has not identified any persuasive reason why the issues would be better dealt with in this Bankruptcy Court.

Alternatively, there is one other consideration that is, in this Court's view, an independent and sufficient reason for discretionary abstention, and alternatively is "cause" for relief from the automatic stay. Debtor's attempt to have this Bankruptcy Court review the arbitration award, rather than the usual process of review by the Superior Court, smacks of forum shopping. In addressing this alternative consideration, this Court interprets the *Curtis* factors as helpful but not limiting.

To be sure, if there were (i) numerous matters to be arbitrated, and (ii) no assurance that the arbitration-related matters would proceed expeditiously before arbitrators and Nonbankruptcy Courts, then the Bankruptcy Code's policies of centralization of disputes, avoiding piecemeal litigation, and

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avoiding undue delay in reorganizing might well tip the balance in favor of reviewing the arbitration award in this Bankruptcy Court rather than deferring to the State Courts (assuming without deciding that this Bankruptcy Court would have jurisdiction to do so). See *In re Thorpe Insulation Co.*, 671 F.3d 1011, 1022-24 & n.9 (9th Cir. 2012). But such facts are not presented in this case.

In view of the foregoing, this Court finds it unnecessary to reach a determination as to Movant's remaining arguments.

(2) Evidentiary Objections

Sustain the objections insofar as lack of relevance (without reaching the other evidentiary objections). Alternatively, the tentative ruling is that this Court would reach the same result regardless of the ruling on the evidentiary objections.

(3) Additional Relief: effective date

Grant the request to waive the 14-day stay provided by FRBP 4001(a)
(3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 9/13/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether this Court should grant in part and continue in part the underlying motion for relief from the automatic stay, to permit finalization of arbitrator's interim award, but not a petition to the Superior Court to confirm the final arbitration award, and meanwhile order the parties

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to mandatory mediation.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

Apex Realty, Inc.

Represented By
James R Selth
Crystle Jane Lindsey
David L. Neale
David L. Neale, Esq

BRG Adams, LLC

Represented By
David L. Neale

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#2.10 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115 fr. 10/29/19

Docket 60

Tentative Ruling:

Tentative Ruling for 11/5/19:

Please see the tentative ruling for status conference (calendar no. 3, 11/5/19 at 2:00 p.m.).

Tentative Ruling for 10/29/19:

Please see tentative ruling in status conference (cal. no. 7, 10/29/19 at 1:00 p.m.).

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

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#2.20 Cont'd hrg re: Motion to Use Cash Collateral
fr. 10/29/19

Docket 51

Tentative Ruling:

Tentative Ruling for 11/5/19:

Please see the tentative ruling for status conference (calendar no. 3, 11/5/19 at 2:00 p.m.).

Tentative Ruling for 10/29/19:

Appearances required. Deny the (belated) motion re cash collateral (docket no. 51) and only authorize Debtor to use funds to pay the following items in the proposed budget (dkt.51, Ex."A" "1", at p.22):

- (1) non-insider payroll, payroll taxes, benefits, and payroll service,
- (2) consultants whose employment has been authorized by written order of this Court,
- (3) insurance,
- (4) Hanmi Bank adequate protection payments equal to regular monthly payments of principal and interest - not any "loan fees,"
- (5) property repair and maintenance,
- (6) Office expense and supplies, postage, and shipping,
- (7) Permits, property taxes, and licenses,
- (8) telecommunications,
- (9) utilities.

The tentative ruling is that all other expenses are not adequately explained and justified. For example, the proposed budget includes \$108,222 (approximately 2/3 of the total expenses) for "Taxi Vouchers and tokens" plus \$3,155/mo. for "Equipment rental and maintenance," \$3,412/mo. for "Management Fees," and \$5,784/mo. for "Facility cost (rent utilities)." How can any creditors or this Court assess whether those things are "ordinary course" without some explanation? See 11 U.S.C. 363(b).

Has Debtor historically been in the business of providing taxi vouchers to low-income persons to facilitate employment, medical visits, and food? If

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so, why was this not explained in more detail in the initial status conference report? See *dk.11*. Are those services paid for out of the grants that Debtor receives? Is there any protection of the bankruptcy estate against misuse of such a large amount of transfers? Is the budget for those things consistent with past practices and/or with the expenses of other nonprofits that provide similar services? See *In re Dant & Russell, Inc.*, 853 F.2d 700 (9th Cir. 1988).

In addition, as to those expenditures that are approved, the tentative ruling is not to approve section "8" of the proposed stipulation with Hanmi Bank (*dk. 51, Ex.A*). In that section Debtor purports to waive rights under 11 U.S.C. 364(d) and 506(c), but there is no showing why that would be appropriate and it might be detrimental to creditors. The tentative ruling is, instead, to require that Debtor provide at least 72 hours' advance notice of any proposed expenditure that Debtor believes would qualify for reimbursement under section 506(c), absent exigent circumstances that make such advance notice impossible. In other respects, the tentative ruling is to authorize the use of cash collateral as provided in the stipulation, but subject to the conditions set forth below.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following

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protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any

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recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (*e.g.*, cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (*e.g.*, any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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#3.00 Cont'd Status Conference re: Chapter 11 case
fr. 8/20/19, 9/24/19,10/29/19

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 11/5/19:

Appearances required.

(1) Current issues

(a) Motion for Relief From Automatic Stay (dkt.37); Opposition (dkt.65); Reply (dkt. 71); and related documents

Grant, as set forth in the tentative ruling for calendar no. 2 (11/5/19 at 2:00 p.m.).

(b) Budget Motion (dkt. 60) and cash collateral motion (dkt.61) and stipulation (dkt.61, Ex.A)

At the hearing on 10/29/19 this Court was persuaded to authorize the use of cash collateral on an interim basis - not because of the adequacy of Debtor's papers but because of the potentially adverse effects on multiple constituencies if this Court were to prohibit the use of cash collateral. This Court declined either to approve or disapprove Debtor's budget: again, Debtor's papers were inadequate, and if Debtor turns out to have been engaging in expenditures out of the ordinary course without authorization, or otherwise improperly managing the budget, that will have consequences. This Court also set a deadline of 11/1/19 at noon for Debtor to file declaration(s) addressing the concerns of this Court and the United States Trustee (as set forth on the record and in this Court's tentative ruling for the 10/29/19 hearing, reproduced below). This Court also directed Hanmi Bank to lodge a proposed order authorizing the use of cash collateral as set forth in that tentative ruling for 10/29/19.

Debtor timely filed the declaration (dkt.74) of its principal, Pastor Edgar E. Boyd, purportedly addressing the above-referenced concerns. The tentative ruling is that Reverend Boyd's declaration does not adequately address how the proposed budget is (or is not) "ordinary course." See *generally In re Dant & Russell, Inc.*, 853 F.2d 700 (9th Cir. 1988). Nor does

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does Reverend Boyd's declaration adequately project how Debtor will maintain positive cash flow postpetition. The parties should be prepared to address possible remedies.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception*: Per oral order at 9/24/19 hearing, the bar date for creditors Apex Realty, Inc. and BRG Adams, LLC will be set at the hearing on 11/5/19.

(b) Procedures order: dkt. 2 (timely served, dkt.23).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/17/19 at 2:00 p.m., *brief* status report due 12/3/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/29/19:

Appearances required

(1) Current issues

(a) Budget Motion (dkt. 60) and cash collateral motion (dkt.61) and stipulation (dkt.61, Ex.A)

Deny, and only authorize a limited use of cash collateral and/or property of the estate as set forth in the tentative ruling for calendar no. 5 (10/29/19 at 1:00 p.m.).

Proposed orders: Debtor is directed to lodge proposed orders on

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each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Monthly Operating Report, for 9/30/19 ("MOR," dkt.69)

Debtor's MOR raises a number of concerns. First, the first page lists a very large monthly net loss and a large negative ending balance. Second, Debtor's report of postpetition accounts receivable (dkt.69, at PDF p.36) lists aging that exceeds the entire duration of this case: how can that be so? Third, Debtor reports payments of insider compensation, allegedly pursuant to order(s) from 2017 (dkt.69, at PDF p.38) but this case was not filed until 2019. Later the MOR asserts, "Insider compensation forms previously served. No objections." (dkt.69, at PDF p.41) But this Court's review of the docket did not disclose any proof of service of any such notices. Fourth, the MOR reports (dkt.69, at PDF pp.34-35) that Debtor is delinquent in real property taxes and UST fees. In sum, the MOR paints a bleak and internally inconsistent picture.

(c) Remedies?

As set forth in this Court's procedures order (dkt.2), this Court can make case-dispositive rulings at any status conference, among other things. What remedies are appropriate to address the foregoing concerns?

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception:* Per oral order at 9/24/19 hearing, the bar date for creditors Apex Realty, Inc. and BRG Adams, LLC will be set at the hearing on 11/5/19.

(b) Procedures order: dkt.2 (timely served, dkt.23).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 11/5/19 at 2:00 p.m., concurrent with other matters in this case; no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Missing status report

As of the time this tentative ruling has been prepared, no status report is on file. Why Not?

(b) Missing budget motion

At the 8/20/19 status conference this Court directed the Debtor to file a budget motion. As of the time this tentative ruling has been prepared, the docket does not reflect that the Debtor has complied. Why not?

(c) Cash collateral

At the 8/20/19 status conference, this Court expressed serious concerns about Debtor's possible use of cash collateral without the consent of its lender. What is the status of the Debtor's negotiations with its lender re cash collateral?

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/29/19 at 1:00 p.m., *brief* status report due 10/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Service of order setting principal status conference

This Court's order setting principal status conference (dkt. 2) required Debtor to serve this order on all parties in interest and file a proof of service at least 14 days before the principal status conference. As of the drafting of this tentative ruling, the docket does not reflect such service. Was the order served?

(b) Missing budget motion

Debtor's status report states that Debtor has not yet filed a budget motion but "will do so if necessary." Dkt. 11 at p.3. Per the posted Procedures of Judge Bason (available at cacb.uscourts.gov), budget motions are required in all Chapter 11 cases.

(c) Cash collateral

Debtor indicates that it will meet and confer with its lender re cash collateral. Dkt. 11 at p.3. What is the status of those negotiations?

Pending lender approval, how has Debtor continued to operate its business since filing? Has Debtor been using cash collateral without authorization? Has Debtor been holding the rent money it has received in a separate account?

(d) Interim arbitration award

Debtor should be prepared to apprise the court of the details surrounding the interim arbitration award, including the nature of the dispute, how Debtor intends to contest the award, and what approach to the award is in the best interests of creditors.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status

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report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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Los Angeles
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2:19-12720 Andrea Pompelli Steyn

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Adv#: 2:19-01232 Steyn v. Karl S. Reinecker, An Accountancy Corporation et a

#4.00 Cont'd hrg re: Motion to Dismiss Adversary Proceeding;
Including Motion to Compel Arbitration and Stay
fr. 10/1/19

Docket 5

Tentative Ruling:

Please see the tentative ruling for the adversary status conference (calendar no. 5, 11/5/19 at 2:00p.m.).

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Defendant(s):

Karl S. Reinecker, An Accountancy

Represented By
Lewis R Landau

Marquee Funding Group, Inc.

Represented By
Lewis R Landau

DOES 1-10

Pro Se

Movant(s):

Karl S. Reinecker, An Accountancy

Represented By
Lewis R Landau

Marquee Funding Group, Inc.

Represented By
Lewis R Landau

Plaintiff(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

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Adv#: 2:19-01232 Steyn v. Karl S. Reinecker, An Accountancy Corporation et a

- #5.00** Cont'd status conference re: Complaint for: 1. Damages for violations under the truth and lending act; 2. Damages for violations of the home ownership and equity protection act; 3. Unfair practices act under California Civil Code section 17200; 4. Breach of fiduciary duty; and 5. Declaratory relief
fr. 9/24/19

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 11/5/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 14) and the other filed documents and records in this adversary proceeding.

(A) Current issues

(1) Motion to dismiss ("MTD," adv. dkt. 5) filed by Karl S. Reinecker, an Accountancy Corporation ("KSRAC") and Marquee Funding Group, Inc. ("MFG") (collectively, "Defendants"), with respect to Debtor's complaint (adv. dkt. 1) & request for judicial notice (adv. dkt. 6), debtor's opposition & request for judicial notice (adv. dkt. 12, 13), defendants' reply (adv. dkt. 15)

There is no tentative ruling.

(B) Standard issues

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether

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the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation
n/a

(3) Deadlines

This adversary proceeding has been pending since 7/22/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: N/A

Continued status conference: 12/17/19 at 2:00 p.m.

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

This Court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Defendant(s):

Karl S. Reinecker, An Accountancy

Represented By
Lewis R Landau

Marquee Funding Group, Inc.

Represented By
Lewis R Landau

DOES 1-10

Pro Se

Plaintiff(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

2:00 PM

2:13-26483 Saeed Cohen

Chapter 11

Adv#: 2:16-01046 Cohen v. Cohen

#6.00 Cont'd hrg re: Motion to reopen adversary proceeding to hear motion on release monies or rents payable to Fariba Cohen fr. 10/15/19

Docket 170

*** VACATED *** REASON: Cont. to 12/10/19 at 2:00 p.m. per stip. (adv. dkt. 183) and order thereon.

Tentative Ruling:

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young

Defendant(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Beth Ann R Young

Movant(s):

Fariba Cohen

Represented By
Alan W Forsley
Susan K Seflin
Kevin J Leichter
Michael H Weiss

Plaintiff(s):

Fariba Cohen

Represented By

**United States Bankruptcy Court
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Tuesday, November 5, 2019

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CONT...

Saeed Cohen

Chapter 11

Alan W Forsley
Susan K Seflin
Kevin J Leichter
Michael H Weiss

**United States Bankruptcy Court
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Los Angeles
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2:13-26483 Saeed Cohen

Chapter 11

#7.00 Cont'd Status Conference re: Post Confirmation
fr. 5/23/17, 8/8/17, 9/12/17, 12/12/17, 1/9/18,
4/10/18, 4/17/18, 07/17/18, 11/20/18, 12/11/18,
03/12/19, 3/26/19; 08/06/19

Docket 0

***** VACATED *** REASON: Cont. to 12/10/19 at 2:00 p.m. per
stipulation (16-01046, adv. dkt. 183) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young

**United States Bankruptcy Court
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Los Angeles
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Tuesday, November 5, 2019

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2:00 PM

2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

#8.00 Hrg re: Motion to dismiss first amended complaint

Docket 47

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 11, 11/5/19 at 2:00 p.m.)

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

National Default Servicing

Represented By

**United States Bankruptcy Court
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Los Angeles
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CONT... Juvernaldo Cordon Cruz

Chapter 11

BSI Financial Services, Inc.

Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Movant(s):

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

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2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

#9.00 Hrg re: Bank of America, N.A.'s motion to
dismiss first amended complaint

Docket 50

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 11,
11/5/19 at 2:00 p.m.)

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

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CONT... Juvernaldo Cordon Cruz
National Default Servicing

Chapter 11

Represented By
Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

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Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

#10.00 Hrg re: National Default Servicing Corporation's motion to dismiss first amended complaint

Docket 52

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 11, 11/5/19 at 2:00 p.m.)

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

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CONT... Juvernaldo Cordon Cruz
National Default Servicing

Chapter 11

Represented By
Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Movant(s):

National Default Servicing

Represented By
Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

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Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

- #11.00** Cont'd status conference re: Complaint for (1) Wrongful Foreclosure; (2) Violation of California Civil Code § 2934a(a)(1)(A)(C)(D); (3) Intentional Misrepresentation; (4) Negligent Misrepresentation; (5) Violation of California Business & Professions Code § 17200, Et Seq.; (6) Violation of Homeowner Bill of Rights ("HBOR"); (7) Breach of Contract; (8) Fraud; (9) False Promise; (10) Intentional Infliction of Emotion Distress; (11) Negligent Infliction of Emotional Distress; (12) Declaratory Relief; (13) Violation of Automatic Stay
fr. 7/30/19, 8/20/19, 10/1/19

Docket 1

Tentative Ruling:

Revised Tentative Ruling for 11/5/19:

Appearances required. There is no tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/1/19:

Continue to 11/5/19 at 10:00 a.m. so that this Court can review any response to Debtor/Plaintiff's First Amended Complaint (adv. dkt. 45). Appearances are not required on 10/1/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required. The tentative ruling is (A) to grant the defendants' motions to dismiss Debtor's Complaint (the "MTDs," adv.no. 2:19-ap-01103-NB), without leave for Debtor to amend his Complaint, (B) to deny Debtor's motion for contempt (the "Contempt Motion," dkt. 197), without leave to amend that motion, and (C) to continue the status conference in this adversary proceeding to 10/29/19 at 2:00 p.m., and set a concurrent status conference in the bankruptcy case itself, with a direction to Debtor to file a brief status report in both proceedings no later than 10/15/19.

(1) Overview

(a) Contentions

The parties' disputes arise from a stipulation gone wrong. See Stip. (dkt. 135, the "Stipulation"), approved by Order (dkt.107). Debtor asserts that the Stipulation had the effect of substituting him in place of the original borrower. Debtor claims that the bearer of the promissory note, Bank of America, N.A. ("BoFA"), and its agents including its loan servicers (with BoFA, "Creditors"), wrongfully refused to communicate with him, refused to accept some payments, and wrongfully foreclosed on his rental property at 12902 Fairford Ave., Norwalk, CA (the "Fairford Property").

Creditors assert that Debtor was never substituted as a new borrower. They dispute that they ever refused to accept any payments.

Alternatively, Creditors argue that, even if there is a factual dispute about whether Debtor tendered some payments, Debtor never alleges in his Complaint that he tendered all payments. In fact, according to Creditors, Debtor failed to make a substantial number of payments - *i.e.*, even if he had been substituted as the borrower under the loan documents he was in default anyway, so the Fairford Property was subject to foreclosure.

(b) Summary of analysis

As set forth below, a fair reading of the Stipulation is that, as Debtor asserts, he was effectively substituted for the original borrower. In effect, the

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Stipulation and the Plan rewrote the terms of the loan and made Debtor the borrower and mortgagor.

But Debtor does not allege in his Complaint or in his opposition to Creditors' MTD that he tendered the (much reduced) payments he promised. So the Fairford Property was subject to foreclosure regardless whether he was or was not recognized as the borrower.

Debtor also complains that the creditors refused to communicate with him, but he has not alleged how any lack of communication caused him any harm, or how a failure to communicate is itself grounds to state some sort of a claim (e.g., some sort of presumptive statutory damages for non-communication).

The tentative ruling is that Debtor's Complaint does not state a claim either based on any allegedly wrongful refusal to accept payments, or for failure to communicate, or for foreclosure. Therefore it appears appropriate to grant the MTDs, and the remaining question is whether to grant leave to amend.

Conceivably Debtor could assert that, if he had only been able to communicate with Creditors, they might have granted him a further loan modification. That might (or might not) state a claim under the Homeowner Bill Of Rights ("HBOA") (Cal.Civ.C. 2923.7) or some other claim.

But any allegation that Debtor was deprived of an opportunity to obtain a further loan modification appears to be implausible, on the record presently before this Court. BofA and Debtor previously stipulated that it had a secured claim of \$383,000.00 (Stip., dkt. 105, p.3:22-24), but BofA nevertheless agreed to modify the loan down to \$250,000.01 (Disclosure Statement, Ex.H, Endnote 2, at dkt.130-2, PDF p.3), as a result of which Debtor now asserts that he had \$200,000 of equity in the Fairford Property (dkt. 197, p.11:13-18). This Court is not aware of any reason why a creditor who is (allegedly) so oversecured would voluntarily agree to write down its debt even further, so it is not apparent how Debtor was harmed by any inability to communicate with Creditors. Therefore, the tentative ruling is to grant the MTDs without leave to amend.

Debtor's Contempt Motion is subject to the same obstacles set forth above: (i) Debtor's apparent lack of harm from refusal to accept partial payments, because he could not afford full payment; and (ii) the lack of apparent harm from non-communication, because he had no plausible ability to obtain a further loan modification.

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Juernaldo Cordon Cruz

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Alternatively, the Contempt Motion is subject to a more fundamental flaw: Debtor asserts violation of the discharge injunction, but he never obtained a discharge order. Alternatively, Debtor has not alleged any *in personam* collection efforts, only *in rem*, and *in rem* acts do not violate any discharge injunction.

For each of these alternative reasons, the tentative ruling is to deny the Sanctions Motion without leave to amend.

(2) Procedural history

Two separate proceedings are involved.

(a) The Complaint

On 4/9/19 Debtor filed a Complaint commencing an adversary proceeding (the "Complaint," adv. no. 2:19-ap-01103-NB, adv. dkt. 1). The Complaint seeks damages of not less than \$1.5 million (*id.*, p.33:23), based on claims for wrongful foreclosure, intentional and negligent misrepresentation, fraud, violation of the HBOR, violation of the automatic stay (11 U.S.C. 362(a)), etc. The Complaint names as defendants BofA; Fay Servicing, LLC ("Fay"); Wilmington Savings Fund Society, FSB d/b/a Christiana Trust, Not Individually But As Trustee For Hilldale Trust ("Wilmington"); BSI Financial Services, Inc. ("BSI"); and National Default Servicing Corporation ("NatDefault").

Responding to the Complaint, MTDs have been filed by BofA (adv.dkt.8,9) and by Fay, Wilmington and BSI (collectively, the "Fay Parties," adv.dkt.11,13). NatDefault has filed a joinder in the Fay Parties' MTD (adv.dkt.15). Debtor has filed opposition papers (adv.dkt. 24-27), and BofA and Fay have filed replies (adv.dkt. 28, 29).

(b) Contempt Motion

On 6/26/19 Debtor filed a motion for damages pursuant to 11 U.S.C. 105 (the "Contempt Motion," dkt. 197). The Contempt Motion seeks damages of \$400,000 in emotional distress damages, \$200,000 for loss of equity to the property, \$70,000 for improvements to the property, and miscellaneous other damages. Dkt. 197, p.11:13-18. The Contempt Motion alleges that BofA willfully failed to adhere to the terms of the Stipulation, and it asserts that in doing so BofA violated the discharge injunction (11 U.S.C. 524(a)(2), as modified by 11 U.S.C. 1141(d)(5)).

Responding to the Contempt Motion, BofA has filed opposition papers (dkt. 205, 206). So have the Fay Parties (dkt.202-04), on the basis that

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Debtor "implies that Fay and BSI could be liable for their conduct in servicing the loan and in proceeding with foreclosure." Adv.dkt.202, p.2:20-21. Debtor has filed reply papers (dkt. 208).

(3) Procedural issues

(a) Jurisdiction, and request for abstention

BofA argues that Debtor asserts only State law claims. See BofA MTD (adv.dkt.8) p.1:13-14. The Fay Parties make a similar argument. See Reply-MTD (adv.dkt.28) pp.3:7-4:26. Based on these assertions they question this Bankruptcy Court's jurisdiction and assert that this Court should abstain.

Those arguments are not persuasive. First, technically, Debtor's Complaint (adv.dkt.1) asserts a claim for violation of the automatic stay (11 U.S.C. 362(a)), and Debtors' Contempt Motion (main case, dkt. 197) asserts a violation of the discharge injunction (11 U.S.C. 524), and those are claims arise under the Bankruptcy Code. True, this Court's tentative ruling is that neither claim has merit, but until this Court reaches the merits those claims do create "arising under" jurisdiction. 28 U.S.C. 1334.

More importantly, the remaining claims asserted by Debtors are founded on the Stipulation and, at least implicitly, Debtors' chapter 11 plan (the "Plan," dkt.129) and this Court's orders approving the Stipulation (dkt.107) and confirming the Plan (the "Confirmation Order," dkt.151). The effect of all of those things (according to Debtors, and this tentative ruling) was to restructure Debtor's relationship with BofA and substituting Debtor in place of the original borrower.

The Stipulation, the Plan, and this Court's orders all arose in this bankruptcy case, and this Court is in the best position to interpret the Stipulation, the Plan, and this Court's own orders based on the facts and circumstances of this bankruptcy case. In addition, the Plan provides that (with inapplicable exceptions) this Court retains post-confirmation jurisdiction over a wide range of proceedings, including "sanctions" and "the implementation, interpretation, or enforcement of this Plan" See Plan, dkt.129, p.6, Article V, Part. F.

For all of these reasons the tentative ruling is that this Court has jurisdiction, and that abstention would be inappropriate. See 28 U.S.C. 1334 and *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559-60 (Bankr. C.D. Cal. 2004); *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal.

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Dec. 9, 2011).

(b) Whether the Contempt Motion should have been filed in the adversary proceeding instead of the bankruptcy case

In general, civil contempt must be sought by a contested matter rather than an adversary proceeding. See *Barrientos v. Wells Fargo Bank, N.A.*, 633 F.3d 1186, 1190-91 (9th Cir. 2011). But in this instance the Contempt Motion, which was filed in the main case (albeit with the double-caption of an adversary proceeding) arises from the same nucleus of operative facts as the Complaint, and in addition the Contempt Motion was filed after the Complaint, so perhaps Debtors' claim about violation of the discharge injunction and request for sanctions should have been included in the adversary proceeding, either as one of Debtor's claims or perhaps as a separate motion. But the tentative ruling is not to address this issue: it has not been briefed, and the tentative ruling is that this Court need not decide this issue *sua sponte*. See *In re Nash*, 464 B.R. 874, 879 (9th Cir. BAP 2012) (harmless error to use wrong proceeding).

(4) Merits of the MTDs and the Complaint

(a) Interpretation of the Stipulation, and related documents

The stipulation (dkt. 197, Ex.C, at PDF pp.22-28) reads like an agreement to treat Debtor as the substituted borrower. It obligates Debtor to make payments on BofA's secured claim in a specified dollar amount each month, at a specified interest rate, and provides that BofA will retain its security interest "until the secured claim is paid in full per the terms of the Note and Deed of Trust as modified by this Stipulation." *Id.* para.4. Why would Debtor and BofA agree to these things unless they intended to treat Debtor as the new mortgagor?

Even more telling, the remaining portion of BofA's claim is treated as an unsecured claim against Debtor (*id.*, para. 7) - in other words, Debtor is treated as having personal liability on the debt. Why would BofA and Debtor so stipulate unless Debtor had been substituted for the original borrower under the promissory note?

The Stipulation is incorporated into the Plan and the Confirmation Order. The latter states that "Class 2B creditor, Bank of America, N.A. ("B of A"), shall be entitled to immediate relief from the automatic stay and the claim shall be treated consistent with the Stipulation between Debtor and B of A (Docket No. 105), approved by Order of the Court (Docket No. 107)."

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Confirmation Order (dkt.151), p.2:18-21 (emphasis added).

For all of these reasons, the tentative ruling is that Debtor's interpretation of the Stipulation is correct. Debtor should have been recognized by BofA as having been substituted for the original borrower, and, at least once this was pointed out to BofA, it should have corroborated that fact to the other Creditors.

The question is whether Debtor has asserted any cognizable claims based on Creditors' refusal to recognize him as the borrower. The tentative ruling is that Debtor has not stated any such claims.

(b) Debtor's allegations: not accepting payments; not communicating; and foreclosing

Debtor asserts a failure to accept some payments. See, e.g., Complaint (adv.dkt.1) para.113, at p.23:21-26. Creditors dispute this, and also assert that Debtor never tendered enough to cure the defaults. Debtor's allegations in the Complaint never say otherwise. BofA cites authority that this is fatal to Debtor's claims for wrongful foreclosure. See BofA MTD (adv.dkt.8), pp.8:17-9:11.

Debtor also cite no authority that there is any duty to accept partial payments. Nor does Debtor explain how, even if there was such a duty, he was damaged by the refusal to accept partial payments. If he could not afford to make full payments, he was subject to foreclosure, and therefore if he was prevented from making partial payments it appears that he was only prevented from throwing good money after bad.

The Complaint alleges a failure to communicate with Debtor, but most of Debtor's claims do not assert any duty to communicate with him. An exception is the 6th claim for relief (adv.dkt.1, p.20:12 et seq) asserts violation of the HBOR (Cal.Civ.C. 2923.7) which does appear to establish a duty to communicate with the borrower (through a single point of contact). But, again, it is unclear how Debtor suffered any harm from any lack of communication.

To the contrary it appears that lenders have no duty to offer, consider, or approve loan modifications. See, e.g., *Sheen v. Wells Fargo Bank, NA*, ___ Cal.App.5th ___ (2d Div. 8/5/2019).

The Complaint's eighth claim for relief (adv.dkt.1, p.25:3 et seq.) alleges fraud in inducing Debtor to enter into the Stipulation if, despite making payments, Debtor would be subject to foreclosure. There appear to be grounds for that assertion but, again, Debtor has not established any harm

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from Creditors' failure to recognize him as successor to the original borrower pursuant to the Stipulation, because he has not asserted that he tendered the full monthly payments.

As set forth in the Overview (part "(1)" of this tentative ruling) the bottom line is that the Complaint does not appear to state any claims on which relief may be granted. Nor is it apparent how Debtor could amend the Complaint to state a viable claim.

(5) Merits of the Contempt Motion

Debtor seeks a determination that Creditors are in contempt of court for violation of the discharge injunction, and Debtor seeks compensatory damages, pursuant to 11 U.S.C. 105(a). See Contempt Motion (dkt. 197), p.8:22-24 (asserting violation of "an order issued by this Court - *i.e.*, the Discharge Order"). See *also, e.g., In re Dyer*, 322 F.3d 1178, 1190 (9th Cir. 2003). Debtor has the burden to establish, by clear and convincing evidence, that Creditors violated a specific and definite order of this Court, including a "deemed" order such as the automatic stay (11 U.S.C. 362) or the discharge injunction (11 U.S.C. 524). See *id. and FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th Cir. 1999).

(a) Debtor has not established that he ever received a discharge

Debtor has not established any violation of a discharge injunction because, under 11 U.S.C. 1141(d)(5), an individual debtor is not discharged "until the court grants a discharge on completion of all payments under the plan," unless the court orders otherwise for cause after notice and a hearing. Nothing in the Plan or the Confirmation Order suggests otherwise. See Plan (dkt.129), Article IV.A. (discharge is per section 1141(d)); Confirmation Order (dkt. 151) (all terms and conditions of Plan are incorporated into order).

For this reason, this Court's local forms permit a chapter 11 case to be closed on an interim basis and reopened later "so that a motion for entry of discharge ... may be filed and resolved." See dkt. 170, p.3, para.3.b. The docket does not reflect any motion for entry of a discharge, and the 60 month term of the Plan has yet to run, so apparently he is not yet eligible for a discharge. Accordingly, there could be no violation of any discharge injunction.

(b) The discharge injunction only prohibits *in personam* collection, and Debtor only alleges *in rem* acts

The discharge injunction in section 524 states:

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(a) A discharge under this title --

(2) operates as an injunction against the commencement or continuation of an action, the employment of process, or any act, to collect, recover or offset any [discharged] debt as a personal liability of the debtor, whether or not discharge of such debt is waived [11 U.S.C. 524(a)(2) (emphasis added)]

Because the discharge injunction only prohibits efforts to collect debts as a personal liability of the debtor, "secured creditors can foreclose their liens after the discharge is entered." *In re Marino*, 577 B.R. 772, 783-84 (9th Cir. BAP 2017) (citations and internal quotation marks omitted)).

Debtor does not allege any *in personam* collection efforts. He asserts wrongful foreclosure, but foreclosure is an *in rem* act. Therefore, even if the discharge injunction applied (which it does not), Debtor's allegations would not establish any violation of that injunction.

(6) Conclusion

For all of the foregoing reasons, the tentative ruling is to grant the Creditors' MTDs, dismiss the Complaint without leave to amend, and deny Debtor's Contempt Motion without leave to amend. The tentative ruling is to continue the status conferences so that the parties have time to consider what they will do next, and so that this Court can address any ancillary matters that may be presented.

Tentative Ruling for 7/30/19:

Continue to 8/20/19 at 2:00 p.m. (1) in view of the notice of unavailability of Plaintiff/Debtor's counsel (adv. dkt. 20) and (2) to be concurrent with the pending motions to dismiss (adv. dkt. 8, 11, 15). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

2:00 PM

CONT... Juvernaldo Cordon Cruz

Chapter 11

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

National Default Servicing

Represented By
Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

2:00 PM

CONT... Juvernaldo Cordon Cruz

Chapter 11

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By

Dennise S Henderson

Adam N Barasch

Nichole Glowin

Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 5, 2019

Hearing Room 1545

3:00 PM

2:19-14137 Zeta Graff

Chapter 7

#1.00 Hrg re: Motion for Turnover of Property Chapter 7 Trustee's Motion for Order (1) Compelling Debtor Zeta Graff and Those in Possession With Her to Turnover Property of the Estate; (2) Authorizing Trustee to Utilize Services of the United States Marshals to Enforce Court Order; and (3) Authorizing Trustee to Operate Property Pending Sale and to Employ a Leasing Agent and Property Manager in Connection Therewith

Docket 127

Tentative Ruling:

Grant, subject to any opposition and any reply at the hearing. See dkt. 127-132. Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff

Pro Se

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:15-11214 Michele Viault

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

CITIBANK, N.A.
vs
DEBTOR

Docket 71

***** VACATED *** REASON: Continued to 1/7/2020 at 10:00 a.m. (dkt. 80)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michele Viault

Represented By
Matthew D. Resnik

Movant(s):

Citibank, N.A.

Represented By
Merdaud Jafarnia
Randy Stacey
Aaron Hardison

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:18-21831 Cassandra E. Rosser

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 39

*** VACATED *** REASON: Cont. to 12/10/19 at 10 am per stipulation
(dkt. 44) and order thereon.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cassandra E. Rosser

Represented By
Heather J Canning
Barry E Borowitz

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-15674 Felipe R. Calvillo and Aminta E. Calvillo

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST, N.A.
vs
DEBTOR

Docket 30

*** VACATED *** REASON: APO

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Felipe R. Calvillo

Represented By
Sam Benevento

Joint Debtor(s):

Aminta E. Calvillo

Represented By
Sam Benevento

Movant(s):

U.S. Bank Trust, N.A., as Trustee for

Represented By
Christina J Khil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-16153 Audrey Kendrick

Chapter 13

#4.00 **[CASE DISMISSED ON 9/27/19]**

Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 22

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT...

Audrey Kendrick

Chapter 13

laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Audrey Kendrick

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Audrey Kendrick

Alon Darvish

Chapter 13

Movant(s):

Deutsche Bank National Trust

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-20946 Claudia C Flores

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

REVERSE MORTGAGE FUNDING, LLC
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); *and see also In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues, In re Perl*, 811 F.3d 1120 (9th Cir. 2016)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Claudia C Flores
(scope of automatic stay).

Chapter 13

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Claudia C Flores Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Claudia C Flores	Pro Se
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Movant(s):

Reverse Mortgage Funding, LLC	Represented By Merdaud Jafarnia
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-20946 Claudia C Flores

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

YOSEMITE CAPITAL, LLC
SAMSON LAI & SUSAN LAI
vs
DEBTOR

Docket 29

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT...

Claudia C Flores

Chapter 13

laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Claudia C Flores

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Claudia C Flores

Chapter 13

Movant(s):

Yosemite Capital, LLC; Samson Lai

Represented By
Martin W. Phillips

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#7.00 Hrg re: Motion for relief from stay [RP]

YORAM LEVY
vs
DEBTOR

Docket 127

Tentative Ruling:

Continue to 12/10/19 at 10:00 a.m., for the parties to lodge a proposed order on their stipulation (dkt. 130). Appearances are not required on 11/12/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Robert A Brown

Movant(s):

Ellen Gursky

Represented By
Douglas A Plazak

Martin Schuster

Represented By
Douglas A Plazak

Daniel Grosz

Represented By
Douglas A Plazak

Joseph Yavin

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Acquiplied Assets, B.T.

Chapter 7

Yoram Levy

Douglas A Plazak

Represented By
Douglas A Plazak

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Asa S Hami

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-13148 Reneasha Brown Jones

Chapter 7

#8.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA, INC.
vs
DEBTOR

Docket 28

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Reneasha Brown Jones

Chapter 7

Party Information

Debtor(s):

Reneasha Brown Jones

Represented By
Neil R Hedtke

Movant(s):

Santander Consumer USA Inc.

Represented By
Jennifer H Wang

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-20396 Irene H Kim

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]

HONDA LEASE TRUST
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Irene H Kim

Chapter 13

Party Information

Debtor(s):

Irene H Kim

Represented By
Donald E Iwuchuku

Movant(s):

HONDA LEASE TRUST

Represented By
Vincent V Frounjian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:17-21403 Ghaysar Foroozin

Chapter 13

#10.00 Hrg re: Motion for relief from stay [PP]

DAIMLER TRUST
vs
DEBTOR

Docket 42

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Ghaysar Foroozin

Chapter 13

Party Information

Debtor(s):

Ghaysar Foroozin

Represented By
Matthew D. Resnik

Movant(s):

Daimler Trust

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#11.00 Hrg re: Motion for relief from stay [UD]

550 PASEO MIRAMAR LLC
vs
DEBTOR

Docket 112

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 115).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

Movant(s):

550 Paseo Miramar LLC

Represented By
Keith Patrick Banner

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-18972 Robert A. Javier and Jamie Pena Javier

Chapter 13

#12.00 Hrg re: Motion for relief from stay [NA]

OGA USA, INC.
vs
DEBTOR

Docket 15

*** VACATED *** REASON: Vacated as MOOT in view of Order
Dismissing Case (dkt. 19).

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robert A. Javier

Represented By
Joseph L Pittera

Joint Debtor(s):

Jamie Pena Javier

Represented By
Joseph L Pittera

Movant(s):

OGA USA, Inc

Represented By
Fritz J Firman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-21760 Kenneth Alan Lindahl

Chapter 13

#13.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 28

Tentative Ruling:

Deny as untimely (see below). Appearances required to address whether the case should be dismissed (see Judge Bason's Procedures, posted at www.cacb.uscourts.gov, then search for "362(c)(3)") (the "Procedures").

In addition, the parties are directed to address whether Debtor's pattern of conduct in his prior case and this one establish a willful failure to appear in proper prosecution (11 U.S.C. 109(g)(1)), warranting a 180-day bar against being a debtor in any future bankruptcy case.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis:

(1) Untimeliness

The motion was not timely set for hearing in accordance with 11 U.S.C. 362(c)(3)(B) (providing that "on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30 day period [after the petition date, *i.e.*, 10/4/19 + 30 days]." (emphasis added)).

(2) No attorney fees

This Court presumes that counsel for Debtor will not charge any fees for the time spent on this motion (because counsel knew or should have known of the earlier case and knew or should have known of the 30 day deadline). If counsel intends to charge any fees then the procedures must be followed to dispute this tentative ruling.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Kenneth Alan Lindahl

Chapter 13

(3) Whether to dismiss this case

As noted in the Procedures, there is a question whether this case realistically can go forward without the protection of the automatic stay. On the other hand, sometimes confirmation of a chapter 13 plan has a binding effect on creditors that prevents them from taking actions to collect debts and that operates similar to the automatic stay (as long as Debtor is in compliance with the chapter 13 plan and confirmation order). Therefore, the parties are directed to address whether this case should be dismissed.

(4) Whether to impose a bar

This Court takes judicial notice that Debtor's prior case (Case No. 2:19-bk-18192-NB) was dismissed because:

(a) Debtor's proposed chapter 13 plan was essentially blank (*id.*, dkt.13);

(b) Debtor did not address (as a disputed claim) the debt owed to JPMorgan Chase Bank, NA (*id. and* dkt. 20); and

(c) Debtor made no payments to the Chapter 13 Trustee.

Given that history, the question is whether this new case has been filed for improper purposes, or whether Debtor is failing to appear before this Court in "proper" prosecution of this case, warranting a 180-day bar (if this case is dismissed) against being a debtor in any future bankruptcy case. See 11 U.S.C. 109(g)(1). The parties are directed to address that issue.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kenneth Alan Lindahl

Represented By
Carl Shaff II

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Kenneth Alan Lindahl

Chapter 13

Movant(s):

Kenneth Alan Lindahl

Represented By
Carl Shaff II

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-22674 Juan Herrera

Chapter 13

#14.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 5

Tentative Ruling:

Grant, subject to the following conditions, and with a caution to Debtor's counsel that the motion fails to list BOTH of Debtor's prior dismissed cases: Case Nos. 2:18-bk-13149-WB and 2:19-bk-12685-SK. In future, failure to list all dismissed cases may lead to denial of the requested relief and/or other remedies. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Juan Herrera

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Juan Herrera

Represented By
Jaime A Cuevas Jr.

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:18-23524 Jason Azizieh and Alma Azizieh

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19, 9/10/19, 10/1/19

WELLS FARGO BANK
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 11/12/19 (same as for 10/1/19, 9/10/19 and 7/30/19):
Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jason Azizieh

Represented By
Erika Luna

Joint Debtor(s):

Alma Azizieh

Represented By
Erika Luna

Movant(s):

WELLS FARGO BANK N.A., AS

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Jason Azizieh and Alma Azizieh

Chapter 13

Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:17-11068 Madalyn Mary Phillips

Chapter 13

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19

CHAMPION MORTGAGE COMPANY DBA
NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 91

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Madalyn Mary Phillips

Represented By
Barry E Borowitz

Movant(s):

Champion Mortgage Company

Represented By
Sean C Ferry
Erin Elam

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:17-17121 Sergio Antonio Franco, Sr.

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/15/19, 10/29/19

AJAX MORTGAGE LOAN TRUST 2018-G
MORTGAGE-BACKED SECURITIES, SERIES
2018-G
vs
DEBTOR

Docket 37

Tentative Ruling:

Tentative Ruling for 11/12/19 (same as for 11/5/19 and 10/15/19):
Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sergio Antonio Franco Sr.

Represented By
Gregory M Shanfeld

Movant(s):

Ajax Mortgage Loan Trust 2018-G,

Represented By
Joshua L Scheer
Reilly D Wilkinson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

CONT... Sergio Antonio Franco, Sr.

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:17-11241 Thien Thanh Phan and AI Thu Bui

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/29/19

CALIFORNIA COAST CREDIT UNION
VS
DEBTOR

Docket 65

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Thien Thanh Phan

Represented By
Tina H Trinh

Joint Debtor(s):

AI Thu Bui

Represented By
Tina H Trinh

Movant(s):

California Coast Credit Union, its

Represented By
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:17-11241 Thien Thanh Phan and AI Thu Bui

Chapter 13

#19.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/29/19

CALIFORNIA COAST CREDIT UNION
VS
DEBTOR

Docket 64

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Thien Thanh Phan

Represented By
Tina H Trinh

Joint Debtor(s):

AI Thu Bui

Represented By
Tina H Trinh

Movant(s):

California Coast Credit Union, its

Represented By
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:19-21230 John Lawrence Seitz

Chapter 13

#20.00 ***[CASE DISMISSED on 10/17/19]***

Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/29/19

NEILIA LAVALLE PHILANTHROPIES
vs
DEBTOR

Docket 13

*** VACATED *** REASON: Motion Withdrawn (dkt. 19)

Tentative Ruling:

Party Information

Debtor(s):

John Lawrence Seitz

Pro Se

Movant(s):

Neilia LaValle Philanthropies

Represented By
Ronald Appel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

10:00 AM

2:17-19687 Joe Emmanuel Castillo and Jina Veronica Castillo

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/5/19

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 31

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Joe Emmanuel Castillo

Represented By
Nima S Vokshori

Joint Debtor(s):

Jina Veronica Castillo

Represented By
Nima S Vokshori

Movant(s):

U.S. Bank National Association as

Represented By
Ashish R Rawat
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

2:14-26361 QTS, INC.

Chapter 7

#1.00 Hrg re: Application for payment
of Interim fees and/or expenses
[Chapter 7 trustee, Timothy J. Yoo]

Docket 553

Tentative Ruling:

Allow Timothy J. Yoo \$27,938.84 in fees and \$557.01 in expenses, for a total of \$28,495.85. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

QTS, INC.

Represented By
James R Selth
Elaine Nguyen
Daniel J Weintraub

Movant(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

CONT... QTS, INC.

Chapter 7

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

2:14-26361 QTS, INC.

Chapter 7

#2.00 Hrg re: Application for payment of interim fees and/or expenses
[Levene, Neale, Bender, Yoo & Brill L.L.P.,
Trustee's Attorney]

Docket 547

Tentative Ruling:

Allow Levene, Neale, Bender, Yoo & Brill LLP \$23,262.00 in fees and \$465.84 in expenses, for a total of \$23,727.84. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

QTS, INC.

Represented By
James R Selth
Elaine Nguyen
Daniel J Weintraub

Movant(s):

Levene, Neale, Bender, Yoo & Brill

Represented By
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

CONT... QTS, INC.

Chapter 7

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

2:14-26361 QTS, INC.

Chapter 7

#3.00 Hrg re: First Interim fee application for
Hahn Fife & Company, accountant

Docket 550

Tentative Ruling:

Allow Hahn Fife & Company, LLP \$40,837.50 in fees and \$637.80 in expenses, for a total of \$41,475.30. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

QTS, INC.

Represented By
James R Selth
Elaine Nguyen
Daniel J Weintraub

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim
Jeffrey S Kwong

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

2:92-19331 Griffin Homes

Chapter 11

Adv#: 2:95-05248 Shirley Thymes et al v. Griffin Development Company

#4.00 Order to Appear and Show Cause Why Motion
To Vacate Dismissal Should Not Be Denied

Docket 78

Tentative Ruling:

Appearances required. There is no tentative ruling, but the Movant should be prepared to address this issues raised in this Court's order to show cause (adv. dkt. 78).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Griffin Homes

Represented By
Julie A Goren

Defendant(s):

Griffin Development Company

Pro Se

Plaintiff(s):

William Mabry Guardi Na Ad Lite

Represented By
Wolodymyr Y Dozorsky - DISBARRED -

Shirley Thymes

Pro Se

John And Shirley Thy Mes

Represented By
Wolodymyr Y Dozorsky - DISBARRED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

#5.00 Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt Pursuant to Sections 523 and 727 of the United States Bankruptcy Code fr. 9/4/18,10/9/18, 11/27/18, 01/08/19, 2/5/19, 03/05/19, 04/30/19, 06/04/19; 07/30/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Continue to 12/17/19 at 11:00 a.m., to be concurrent with another calendared matter (see adv. dkt. 23-25). Appearances are not required on 11/12/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). The parties should be prepared to discuss the following issues:

(1) No Status Report

Again, the parties have not filed a Joint Status Report. Why not?

(2) Efforts to finalize settlement

The 4/18/19 status report (adv.dkt.19) reports that this matter has settled. But the dockets in this adversary proceeding and in the associated bankruptcy case still do not reflect any steps to finalize the settlement (e.g., a motion in this adversary proceeding to approve a stipulated judgment, and/or a status report regarding the status of settlement payments and a suggested

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

date to continue this matter, and/or if necessary a motion in the bankruptcy case to approve a settlement per Rule 9019, Fed. R. Bankr. P.). Why not? This adversary proceeding has been pending since 6/22/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Continue to 9/19/19 at 11:00 a.m., with a brief status report due 9/5/19 addressing whether the required settlement payments have been made, and any other issues regarding the parties' settlement (as reported at the status conference on 6/4/19). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties are directed to address why the docket does not reflect any steps to finalize their reported settlement (e.g., a motion in this adversary proceeding to approve a stipulated judgment, and/or if necessary a motion in the bankruptcy case to approve a settlement per Rule 9019, Fed. R. Bankr. P.). This adversary proceeding has been pending since 6/22/18.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue this status conference to 6/4/19 at 11:00 a.m. so that the parties can document their settlement and obtain any approval of Court that may be necessary or appropriate. See Status Report (adv. dkt. 19). Appearances are not required on 4/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:

Appearances required.

The parties are directed to address (1) why no status report was filed as required by the adopted 2/5/19 tentative ruling, and (2) whether the parties have scheduled and/or attended mediation.

The tentative ruling is to continue this status conference to 4/9/19 at 11:00 a.m, with a brief status report due by 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

CONT... **Douglas Lawrance DeCoster**

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue to 3/5/19 at 11:00 a.m, with a brief status report due by 2/26/19. Although the latest Status Report (adv. dkt. 16) does not address whether the mandatory mediation ordered by this Court has occurred, it appears that more time is needed for mediation. Caution: If the parties do not schedule and attend mediation before the next status conference, this Court may impose sanctions on the recalcitrant party(ies). Appearances are not required on 2/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19. Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Douglas Lawrance DeCoster

Chapter 7

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be continued? Should this adversary proceeding be dismissed for lack of prosecution?

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. *Cf.* adv. dkt. 7 (belated request for mediation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed

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CONT... **Douglas Lawrance DeCoster**

Chapter 7

order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By
Charles J Brash

Plaintiff(s):

Kieran Graner

Represented By
Stephen B Goldberg

Sharon Graner

Represented By
Stephen B Goldberg

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CONT... Douglas Lawrance DeCoster

Chapter 7

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

2:19-11828 Bret Russell Witke

Chapter 7

Adv#: 2:19-01192 Mesnick v. Witke et al

#6.00 Cont'd status conference re: Complaint for the non-dischargeability of debt pursuant to 11 U.S.C. sections 523(a)(2)(A), (a)(4) and (a)(6) fr. 9/3/19, 9/10/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

This Court has reviewed the parties' joint status report (dkt. 8) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket number 7 and at the hearing on 9/10/19).

(2) Mediation. [Intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since 6/27/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 1/17/20.

Expert(s) - deadline for reports: 1/31/20

Expert(s) - discovery cutoff (if different from above): 2/14/20

Dispositive motions to be heard no later than: 3/30/20

Joint Status Report: 5/5/20.

Continued status conference: 5/19/20 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 6/30/20

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CONT...

Bret Russell Witke

Chapter 7

Pretrial conference: 7/14/20 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 7/15/20 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 7/20/20 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the parties' joint status report (adv. dkt. 7) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences, except that in view of the parties' Status Report the tentative ruling is not to order mediation at this time. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l*

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CONT... Bret Russell Witke

Chapter 7

Network, Ltd. v. Sharif, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. [Intentionally omitted.]

(3) Deadlines: This adversary proceeding has been pending since 6/27/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 10/15/19.

Continued status conference: 10/29/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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Central District of California
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11:00 AM

CONT... Bret Russell Witke

Chapter 7

Debtor(s):

Bret Russell Witke

Represented By
Michael H Raichelson

Defendant(s):

Bret Russell Witke

Represented By
Michael H Raichelson

Bret Russell Witke Design Inc.

Represented By
Michael H Raichelson

Plaintiff(s):

Michael Mesnick

Represented By
Craig G Margulies
Noreen A Madoyan

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

11:00 AM

2:19-12964 John Martin Kennedy

Chapter 13

Adv#: 2:19-01189 Campos v. Kennedy

#7.00 Cont'd status conference re: Complaint to determine
nondischargeability of debt pursuant to 11 U.S.C.
section 1328(a)(4)
fr. 9/3/19, 9/10/19

Docket 1

***** VACATED *** REASON: Order reassigning adversary proceeding to
Judge ER [dkt. 6]**

Tentative Ruling:

Party Information

Debtor(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Defendant(s):

John Martin Kennedy

Represented By
Jeffrey S Shinbrot

Plaintiff(s):

Yunuen Campos

Represented By
Lauren A Dean

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 12, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01218 Vaatete v. Graff

- #8.00** Cont'd status conference re: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(6) and 11 U.S.C. Section 727(c) fr. 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Continue this status conference as set forth below. This Court has reviewed Plaintiff's latest status report (adv. dkt. 15) and is not aware of any issues that warrant a status conference at this time. Appearances are not required on 11/12/19.

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 11).

(2) Mediation. [intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since 7/12/19.

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 10/30/19.

Continued status conference: 12/17/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

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CONT...

Zeta Graff

Trial commencement: N/A

Chapter 7

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). This Court has reviewed Plaintiff's unilateral status report (adv. dkt. 11) and the other filed documents and records in this adversary proceeding.

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order entitled "Order On Initial Status Conference" via LOU within 7 days after the status conference, attaching a copy of this tentative ruling.

Preliminary matters: continuance

Plaintiff's Status Report notes (a) that a Clerk's Default was entered in this case on 8/20/19 (adv. dkt. 9) and (b) that she will either seek relief from the automatic stay to proceed with defamation actions in nonbankruptcy court and/or seek a default judgment in this adversary proceeding. The tentative ruling is to continue this Status Conference as set forth below, at which time this Court can assess what progress has been made on those issues. Note: In addition, this Court will hold a Status Conference concurrent with any other hearing in this adversary proceeding (including any self-calendared hearings).

Standard matters

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

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CONT... **Zeta Graff**

Chapter 7

(1) Venue/jurisdiction/authority.

Plaintiff is directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. [Intentionally omitted.]

(3) Deadlines: This adversary proceeding has been pending since 7/12/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 10/30/19.

Continued status conference: 11/12/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you

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CONT... Zeta Graff

Chapter 7

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff	Pro Se
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Defendant(s):

Zeta Graff	Pro Se
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Plaintiff(s):

Olivia Vaatete	Represented By Scott D Dinsmore Brennan Mitch
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Trustee(s):

Sam S Leslie (TR)	Represented By Elissa Miller
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**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:17-23714 Fargo Trucking Company, Inc.

Chapter 11

**#1.00 Hrg re: Motion For The Entry Of A Final
Decree And Order Closing Chapter 11 Case**

Docket 390

Tentative Ruling:

Please see the tentative ruling for status conference (calendar no. 2, 11/12/19 at 1:00 p.m.).

Party Information

Debtor(s):

Fargo Trucking Company, Inc.

Represented By
Vanessa M Haberbusch
David R Haberbusch
Lane K Bogard

Movant(s):

Post-Confirmation Committee

Represented By
Daniel H Reiss

Trustee(s):

Timothy J. Yoo

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

2:17-23714 Fargo Trucking Company, Inc.

Chapter 11

#2.00 Status Conference re: Post Confirmation
fr. 12/5/17, 02/13/18, 03/06/18, 5/1/18, 5/22/18,
5/29/18, 08/07/18, 9/21/18, 10/9/18, 12/4/18,
3/26/19, 7/30/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). This Court has reviewed the post-confirmation status report (dkt. 392) and other related pleadings filed in this case.

(1) Current issues

(a) Motion for entry of final decree (dkt. 390) ("Final Decree Motion"); Rubio, Chung & Alvarez response (dkt. 393) (the "Creditor Response")

Truck driver creditors Rubio, Chung and Alvarez ("Creditors") ask this Court to defer entry of a final decree until first resolving a dispute between their former counsel, the Hirsch Law Firm ("Hirsch") and current counsel, Rivera & Shackelford ("Rivera") involving Hirsch's disputed attorney's charging lien that purportedly will attach to any distributions from the liquidating trustee to the Creditors pursuant to the confirmed plan and related settlement. The parties are directed to appear to address the following issues:

(i) Procedures

Creditors oppose entry of a final decree based on their pending dispute, and they request this Court's ruling on the dollar amount of Hirsch's asserted charging lien. Is the latter request properly presented, without a motion or an adversary proceeding?

(ii) Jurisdiction, authority, abstention, and related issues

Does this Court have jurisdiction to resolve the dispute between Hirsch and Rivera, and can this Court issue a final ruling on that dispute under the principles of *Stern v. Marshall*, 564 U.S. 462 (2011)? See *In re AWTR*

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CONT... **Fargo Trucking Company, Inc.**

Chapter 11

Liquidation, Inc., 547 B.R. 831 (Bankr. C.D. Cal. 2016) (Bason, J.). It appears that the issues are solely matters of state law, and meanwhile the chapter 11 plan has been confirmed and assets have been vested in the liquidating trust.

Alternatively, should this Court abstain in favor of resolving this issue in a nonbankruptcy forum?

(iii) Efficiency

Given that the dollar amounts at issue appear to be very small relative to the cost of any litigation on these issues, can the parties resolve their disputes without litigation? If not - and if this Court has jurisdiction, authority, etc. - should this Court decide any remaining issues without any further briefing, evidence, or hearing?

(2) Deadlines/dates. This case was filed on 11/6/17.

(a) Bar date: 3/16/18 (order timely served, dkt. 43, 46).

(b) Plan/Disclosure Statement (dkt. 312): Confirmed (dkt. 362)

(c) Post-confirmation status conference: TBD.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Fargo Trucking Company, Inc.

Represented By

Vanessa M Haberbush

David R Haberbush

Lane K Bogard

Trustee(s):

Timothy J. Yoo

Pro Se

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Central District of California
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1:00 PM

CONT... Fargo Trucking Company, Inc.

Chapter 11

**United States Bankruptcy Court
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Los Angeles
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Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#3.00 Hrg re: Second interim application for compensation and reimbursement of expenses

Docket 113

Tentative Ruling:

Please see tentative ruling in status conference (calendar no. 4, 11/12/19 at 1:00 p.m.).

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

Movant(s):

Edmond Melamed

Represented By
Michael Jay Berger

Rozita Melamed

Represented By
Michael Jay Berger

Edmond Melamed

Pro Se

Rozita Melamed

Pro Se

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1:00 PM

2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19,
04/30/19, 06/04/19; 08/06/19, 9/24/19, 10/29/19

Docket 7

Tentative Ruling:

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

(1) Current Issues

(a) Law offices of Michael J. Berger's second interim fee application (dkt. 113, 114), no opposition is on file

Allow \$11,475 in fees and \$175 in expenses, for a total of \$11,650.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 12/10/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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1:00 PM

CONT... Edmond Melamed and Rozita Melamed

Chapter 11

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues

(a) Settlement of Mazakoda's Inc.'s Claim

Debtors and Mazakoda have each reported a tentative settlement of their disputes (dkt.104, and adv.no. 2:19-ap-01243-NB, adv.dkt.8), and this status conference has been continued before in anticipation of such settlement (see dkt.106). But as of the preparation of this tentative ruling the docket does not reflect any motion to approve a settlement or other resolution. What is the status of the parties' attempted settlement, and what action should this Court take?

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 12/10/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances are not required on 9/24/19.

(1) Current Issues

(c) Settlement of Mazakoda's Inc.'s Claim

Debtors state (dkt.104) that they have engaged in settlement

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discussions with Mazakoda regarding its claim and are in the process of memorializing their agreement. The tentative ruling is to continue this matter to the date set forth below to allow time for the parties to finalize and obtain approval of any settlement.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/26/19 at 1:00 p.m. Brief status report due 11/12/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:19-18316 Ashley Susan Aarons

Chapter 11

#5.00 Hrg re: Application for payment of
interim fees and/or expenses
[Michael R. Totaro, Totaro & Shanahan]

Docket 111

Tentative Ruling:

Please see tentative ruling for status conference (calendar no. 6, 11/12/19 at 1:00 p.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

Movant(s):

Ashley Susan Aarons

Represented By
Michael R Totaro
Michael R Totaro

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2:19-18316 Ashley Susan Aarons

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

(1) Current issues

(a) Totaro & Shanahan's (the "Firm") 1st interim fee application (dkt. 111) (the "Fee Application"); UST's objection (dkt. 114); Patch of Land Lending, LLC's ("Patch") limited objection (dkt. 115); the Firm's reply (dkt. 121)

Continue to the same date and time as the continued status conference stated below. Set **11/19/19** as the deadline for the Firm to submit any supplement in support of the Application and **11/26/19** as the deadline for any supplemental responses from the UST and Patch.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/10/19 at 1:00 p.m.; *brief* status report due 11/22/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65), debtor's opposition (dkt. 86), no reply is on file

There is no tentative ruling, but Debtor is directed to address the thousands of dollars of unauthorized payments to "Independent Contractor[s]" Ofir Engel and L. Napolitano, "McCarthy Construction," and cash withdrawals, as well as the other issues raised by the UST. Debtor is also directed to address what progress, if any, has been made on insurance claims, AirBnB arrangements, refinancing or selling the Bel Air and Sweetzer properties, and other aspects of this bankruptcy case.

(b) Application to employ Totaro & Shanahan (the "Firm") (dkt. 63) (the "Employment Application"), Statement of disinterestedness (dkt. 100), UST Objection (dkt. 90), the Firm's errata (dkt. 97)

The tentative ruling is to grant the Employment Application, subject to any objection from the UST.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/10/19 at 1:00 p.m.; no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) UST's motion to dismiss (dkt. 65), debtor's opposition (dkt. 86), no reply is on file

There is no tentative ruling. The parties should be prepared to address whether debtor has cured all outstanding compliance issues, and whether Debtor's second corrected opposition continues to have error(s) in calculating projected cash flow. That opposition lists net income before personal expenses for "Oct-19" and "Nov-19" as -5,850.00, but then after personal expenses of \$1,751.00 for each month it lists "excess income" of \$34,900.00. Dkt.94, Ex.1, at PDF pp.8-9. If the spreadsheet is wrong about those numbers, can creditors and this Court rely on the rest of Debtor's projections?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/10/19 at 1:00 p.m.; no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/4/19:

Appearances required.

(1) Current issues

(a) Motion for authority to obtain post-petition financing (dkt. 75, 76, 77, 80, 81, 82, 83, 84) (the "Finance Motion"); Alliance Portfolio/Private Equity Finance, Inc.'s Opposition (dkt. 91)

There is no tentative ruling. It appears no reply deadline was set, so debtor's reply will be allowed orally at the hearing.

(b) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The outcome of this motion is subject to this Court's decision whether to grant or deny the Finance Motion.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required. The Court has reviewed the Debtor's status report (dkt. 69).

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(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The parties should be prepared to advise this Court on whether they will agree to an adequate protection order and the proposed \$50,000 loan from Complete Business Solutions Group ("Complete") (dkt.69, p.2:21-25). The parties also should be prepared to address whether shortened time or other special procedures are requested regarding any proposed lending. See 11 U.S.C. 364; Rules 4001(c) & 9006(c)(2) (Fed. R. Bankr. P.).

(b) Contemplated contract with Majestic Ventures LLC dba VacationHomes365.com ("Consultant") re marketing (Airbnb etc.)

Debtor is contemplating a contract with Consultant for marketing services. Dkt.69, Ex.2. As that contract points out (*id.*, sec.7.2, p.44), Debtor is responsible for complying with legal obligations regarding short term rentals, and associated costs, including local taxes.

The parties should be prepared to address whether Consultant is a "professional" within the meaning of 11 U.S.C. 327; whether approval of the contract with Consultant is required under that section or section 363(b); and whether shortened time or other special procedures are requested regarding any proposed agreement with Consultant. See 11 U.S.C. 327, 363(b); Rules 2002(a)(2) & 9006(c)(2) (Fed. R. Bankr. P.).

(c) Termination of prior real estate agent

Debtor reports (dkt. 69, para.3) that the previously authorized real estate agent has agreed to cancel the listing. Is that in writing? Will Debtor need any order related to that cancellation/termination? What assurance is there that this prior agent will not seek some sort of compensation?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:
Appearances required.

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

Grant, as set forth in calendar no. 3 (9/10/19 at 1:00 p.m.).

(b) Employment Motion for The Turoci Firm (dkt. 23, 28)

Deny, as set forth in calendar no. 4 (9/10/19 at 1:00 p.m.). The parties should be prepared to address whether Debtor has arranged for alternate counsel.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by debtor herself.

(1) Current issues

(a) Airbnb

Debtor's budget motion (dkt. 37, Ex.A, p.2) reveals that, although the Sweetzer property is "listed to be sold," meanwhile "Debtor intends to rent [that property] as an Airbnb." The tentative ruling is that this is a transaction out of the ordinary course, which requires notice, an opportunity for a hearing, and approval by this Court. 11 U.S.C. 363(b). Has Debtor already acted on this intent, without such approval?

In addition, this Court is concerned about (i) whether Airbnb rental would be in compliance with any local permitting and zoning requirements and is otherwise permissible, (ii) whether that proposed use might expose the bankruptcy estate to liabilities, (iii) whether there is adequate insurance for that use of the property, and (iv) whether the proposed sale of the property is consistent with any agreement with Airbnb.

(b) Real estate agent.

The employment application (dkt. 26, p.4:1-4) states that Agent has agreed to disclose to Debtor [i.e., only to Debtor? how about disclosure to creditors, the US Trustee, and this Court?] any agency relationship Agent has with other parties ("Third Parties") that may be part of a real estate transaction for the sale of the Real Property [i.e., dual agency? that is prohibited by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)] as well as the amount of any compensation Agent receives from Agent's relationship with any Third Parties [i.e., splitting the commission with a cooperating agent from a different real estate agency? or something else?].

What does the quoted text mean? This Court's questions are set forth in the emphasized, bracketed text above.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status

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report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

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2:18-17941 Patricia Ann Theus

Chapter 11

#7.00 Status conference re: Post confirmation

Docket 0

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Current issues

This Court's order confirming Debtor's plan (dkt. 117) directed Debtor to file a status report by 10/29/19. As of the drafting of this tentative ruling, no status report has been filed. Why not?

The tentative ruling is to continue this status conference to 2/18/19 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

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2:19-19999 Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

#8.00 Cont'd status conference re: Chapter 11 case
fr. 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Continue this status conference as set forth below. Appearances are not required on 11/12/19.

(1) Current issues N/A

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 12/2/19 (order, dkt. 25, timely served, dkt.28).

(b) Procedures order: dkt. 8 (timely served, dkt. 22)

(c) Plan/Disclosure Statement*: file by 1/13/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 1/14/20 at 1:00 p.m. *Brief* status report due 12/31/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

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CONT... Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

- (1) Current issues n/a
- (2) Deadlines/dates. This case was filed on 8/26/19.
- (a) Bar date: 12/2/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
- (b) Plan/Disclosure Statement*: file by 1/13/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
- (c) Continued status conference: 11/12/19 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kim Gordon McNulty

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

Joint Debtor(s):

Melissa Amanda McNulty

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

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2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#9.00 Cont'd status conference re: Chapter 11 case
fr. 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

This matter has been continued to 12/10/19 at 1:00 p.m. Appearances are not required on 11/12/19.

Tentative Ruling for 11/5/19:

Appearances required by proposed counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion for authority to obtain post-petition financing (dkt. 35, 36, 37) (the "Finance Motion"); NVSI, Inc.'s opposition & evidentiary objections (dkt. 46, 47), Debtor's reply (dkt. 53-57)

Grant, on the terms set forth in the reply (dkt.53). Overrule the evidentiary objections of NVSI (dkt.47) to the Livingston decl. (dkt.35, pp.30-35), except to the limited extent set forth below. Specifically, overrule entirely (except as limitations conceded in Debtor's Response) the evidentiary objections to the following para./exhibits to the Livingston decl.:

7, 10, 14, 15, 18, 20, 22 & Ex.6, 25, 29, 30, 31 & Ex.3, 35, 36, 37;
and overrule the objections to the following paragraphs except as noted:

* 27, except as to what Mr. Livingston believes NVSI would agree to;

* 33, except as provided in Debtor's response (dkt.57, p.13:11-20);
and

* 17 & 23 (the testimony regarding settlement negotiations), as to which the tentative ruling is to admit it for the limited purposes set forth in the Response - rebuttal of NVSI's allegations as to Debtor's motives (see dkt.57, pp.6:17-27 & 9:8-19) - to the extent, if any, that such allegations are relevant.

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Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Application to employ Danning Gill Diamond & Kollitz, LLP (the "Firm") (dkt. 27); Statement of disinterestedness (dkt. 28); Supplemental declaration (dkt. 32); Order setting hearing on application (dkt. 44) (the "Order Setting Hearing"); 2d Supp. (dkt.58)

Continue to the same date and time as the continued status conference (see below), per the Firm's second supplement (dkt.58).

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (dkt. 29; timely served, dkt. 31).

(b) Procedures order: dkt. 11 (timely served, dkt. 24)

(c) Plan/Disclosure Statement*: file by 1/3/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 11/12/19 at 1:00 p.m., concurrent with other matters in this case. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for the debtor and by the debtor(s)

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themselves.

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(1) Current issues

(a) Budget motion

Debtor's status report states that it has not filed a budget motion because it is not required by the presiding judge's procedures. Dkt. 23, p.3. Judge Bason's posted procedures (available at cacb.uscourts.gov) Section VII.G provide that budget motions are mandatory in all chapter 11 cases. The tentative ruling is to set a deadline of 9/30/19 to file and serve a budget motion.

(b) Settlement Discussions

The Debtor should be prepared to provide this Court with an update on the status of any settlement discussions with the existing lienholder.

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (DO NOT SERVE notice yet - *court will prepare an order after the status conference*).

(b) Plan/Disclosure Statement*: file by 1/3/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/12/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

CONT... 9469 BEVERLY CREST LLC

John N Tedford

Chapter 11

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

2:17-23651 Letitia Louise Wellington

Chapter 7

Adv#: 2:19-01211 Avery v. Wellington et al

#10.00 Cont'd status conference re: Complaint for 1. Declaratory relief;
2. Turnover of bankruptcy estate property under 11 U.S.C.
section 542(a) (2131 S. Orange Drive, in Los Angeles, CA 90016);
and 3. Authorization to sell estate property under 11 U.S.C.
section 363(h) and FRBP 7001(3); Free of co-owner interest;
4. Bar debtor and Amos Q. Wellington from recovering avoided
transfer under bankruptcy code, under 11 U.S.C. section 522(g)
(1)(A) and (B)
fr. 9/24/19

Docket 1

***** VACATED *** REASON: Cont'd to 3/10/20 at 1:00 p.m. [dkt. 12]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Letitia Louise Wellington

Represented By
Sanaz S Bereliani

Defendant(s):

Letitia Louise Wellington

Pro Se

Amos Q. Wellington

Pro Se

Jonathan Wellington

Pro Se

Michael Wellington

Pro Se

Plaintiff(s):

Wesley H Avery

Represented By
Brett B Curlee

Trustee(s):

Wesley H Avery (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

CONT...

Letitia Louise Wellington

Brett B Curlee

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#11.00 Cont'd hre: Motion For Final Decree
and Order Closing Case
fr. 10/29/19

Docket 191

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see the tentative ruling in status conference (Cal. No. 12, 11/12/19 at 1:00 p.m.).

Tentative Ruling for 10/29/19:

Please see the tentative ruling in status conference (Cal. No. 4, 10/29/19 at 1:00 p.m.).

Party Information

Debtor(s):

Glynder Lucas Striggs	Pro Se
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Movant(s):

Glynder Lucas Striggs	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

2:16-15136 Glynder Lucas Striggs

Chapter 11

#12.00 Cont'd Status Conference re: Post Confirmation
fr. 5/31/16, 7/19/16, 9/13/16, 11/8/16, 1/10/17, 02/28/17,
4/11/17, 5/23/17, 6/20/17, 8/8/17, 8/15/17, 11/14/17,
02/13/18, 7/10/18, 9/18/18, 12/11/18, 5/7/19; 08/06/19,
8/20/19, 9/24/19, 10/29/19

Docket 6

Tentative Ruling:

Tentative Ruling for 11/12/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion for final decree (dkt. 191), limited opposition of U.S. Bank National Association ("US Bank") (dkt. 195), no reply is on file

There is no tentative ruling. This Court was persuaded to continue the hearing to this date to allow time for Debtor and US Bank to attempt to resolve outstanding accounting issues prior to the closing of this case. The parties are directed to appear to provide this Court with an update on the status of those discussions, if any.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (order timely served, dkt. 39)

(b) Third Amended Plan (dkt. 102): Confirmed (dkt. 135).

(c) Continued post-confirmation status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

CONT... Glynder Lucas Striggs

Chapter 11

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion for final decree (dkt. 191), limited opposition of U.S. Bank National Association ("US Bank") (dkt. 195), no reply is on file

The tentative ruling is to grant the Motion for Final Decree provided that (i) the order will recite that it is without prejudice to US Bank's rights to deem the loan in default for failure to make payments as set forth in US Bank's limited opposition (dkt. 195) and (ii) notwithstanding Debtor's assertion that all matters have been resolved (dkt.191, p.4, para.4.a.) it appears that once Debtor has made 60 months of payments to unsecured creditors she will have to file a motion for discharge (see Plan, dkt.102, p.4, Art.IV.A.), and therefore the tentative ruling is to close this case on an interim basis (not a final basis) so that, at that time, Debtor can more easily file a motion to reopen this case and a motion to be granted a discharge of her debts.

Proposed order: US Bank is directed to lodge a proposed order via LOU within 7 days after the hearing date reflecting the foregoing terms, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Motion by U.S. Trustee ("UST") to dismiss ("MTD," dkt.183)

At the hearing on 9/24/19 the UST orally consented to denial of its MTD.

Proposed order/withdrawal: The UST is directed either to withdraw its MTD or to lodge a proposed order via LOU denying the MTD, within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (order timely served, dkt. 39)

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1:00 PM

CONT...

Glynder Lucas Striggs

Chapter 11

(b) Third Amended Plan (dkt. 102): Confirmed (dkt. 135).

(c) Continued post-confirmation status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 12, 2019

Hearing Room 1545

1:00 PM

2:19-22624 Sharyl Gwen Bloom

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/5/19

Docket 8

Tentative Ruling:

Tentative Ruling for 11/12/19 (Same as for 11/5/19):

Appearances required by counsel for the debtor (if any) and by Debtor herself.

(1) Current issues

(a) Should this case be dismissed, with a bar to being a debtor in any future bankruptcy case?

Debtor should be prepared to address the issues identified in the Procedures Order (dkt. 7, pp. 2:23-28 & 3:1-18).

(b) Missing budget motion

Debtor's status report states that a budget motion is not required. Dkt. 17 at p. 3. Per the posted Procedures of Judge Bason (available at cacb.uscourts.gov), budget motions are required in all Chapter 11 cases.

(c) Automatic Stay

Debtor declares that she filed this case, in part, to deal with "a creditor that has been aggressively attempting to foreclose my property and indeed illegally held a sale after notification of the filing of this action on 10/25/19." Dkt. 18, para. 5. But she has not filed any motion to continue the automatic stay under section 362(c)(3) - why not?

(d) Lack of income to fund a plan

Debtor's schedules reflect monthly income of \$4,365 (dkt. 27) and monthly expenses of \$35,300 (dkt. 28). In addition, Debtor's monthly expenses seem wildly inflated (e.g. \$9,000 mortgage, \$4,500 home maintenance, \$1,000 HOA dues, \$3,000 electricity bill, \$3,000 vehicle insurance, \$3,500 car payments) (dkt. 28). Are these figures accurate? If so, should this Court dismiss this case because Debtor has no realistic prospect of reorganizing her affairs?

(e) No application to employ attorney

It appears Debtor has retained counsel to represent her in this case,

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1:00 PM

CONT... Sharyl Gwen Bloom

Chapter 11

but as of the preparation of this tentative ruling no employment application is on file. Why not?

(2) Deadlines/dates. This case was filed on 10/25/19.

(a) Bar date: TBD

(b) Procedures order: dkt.7(not timely served, dkt. 36)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sharyl Gwen Bloom

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 12, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Hrg re: Motion for order approving
disclosure statement

Docket 962

*** VACATED *** REASON: Cont'd to 11/21/19 at 2:00 p.m. [dkt. 971]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

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2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19

BOBS, LLC
vs
DEBTOR

Docket 936

***** VACATED *** REASON: Cont'd to 11/21/19 at 2:00 p.m. [dkt. 971]**

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

**United States Bankruptcy Court
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Tuesday, November 12, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19

Docket 1

***** VACATED *** REASON: Cont'd to 11/21/19 at 2:00 p.m. [dkt. 971]**

Tentative Ruling:

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 12, 2019

Hearing Room 1545

2:00 PM

2:18-15559 R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19, 9/17/19

Docket 5

Tentative Ruling:

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

(1) Current issues

(a) Status report (dkt. 120)

Per Debtor's request, the tentative ruling is to set a hearing on the adequacy of Debtor's 4th Amended Disclosure Statement (dkt. 121) on 1/7/20 at 1:00 p.m., to be heard concurrently with the continued status conference in this matter.

Debtor is directed to file and serve a notice of the Disclosure Statement hearing no later than 11/21/19.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 121, 122)*: see above.

(c) Continued status conference: 1/7/20 at 1:00 p.m. *Brief* status report due 12/31/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit

Chapter 11

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

2:00 PM

2:18-15829 Philip James Layfield

Chapter 7

#5.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19, 7/30/19, 10/1/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 6 (11/12/19 at 2:00 p.m.).

Tentative Ruling for 10/15/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 6.2 (10/15/19 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19, 9/10/19, 10/1/19, 10/15/19

Docket 323

Tentative Ruling:

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

(1) Current matters

(a) Affeld Grivakes Adv.

This Court has reviewed the Joint Statement of Parties re Settlement and Rule 9019(a) Motion (adv. dkt. 10) in which the parties state that they have reached a settlement and request time to obtain court approval pursuant to Rule 9019 (Fed. R. Bankr. P.). The 12/3/19 at 9:00 a.m. trial is vacated. Plaintiff is directed to lodge a proposed order vacating the trial and related deadlines via LOU within 7 days.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences Continue all three of today's status conferences to 12/10/19 at 11:00 a.m., to be heard concurrently with other matters. No status reports required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... Layfield & Barrett, APC

Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Layfield & Barrett, APC	Pro Se
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Movant(s):

Layfield & Barrett, APC	Pro Se
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Trustee(s):

Richard Pachulski (TR)	Represented By Malhar S Pagay James KT Hunter
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**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:19-01028 Affeld Grivakes LLP v. Pachulski

#7.00 Pretrial Conference re: Complaint for 1) Declaratory Relief; 2) Enforcement of Lien fr. 04/02/19, 06/04/19, 7/30/19, 10/1/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 6 (11/12/19 at 2:00 p.m.).

Tentative Ruling for 10/1/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 4 (10/1/19 at 2:00 p.m.).

Tentative Ruling for 7/30/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 14 (7/30/19 at 11:00 a.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 4) and the other filed documents and records in this adversary proceeding.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

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CONT... Layfield & Barrett, APC

Chapter 11

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 4/16/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 1/29/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 7/9/19, subject to adjustment at next status conference depending on Alvarez issues (see Status Report, adv. dkt. 4, section G).

Expert(s) - deadline for reports: 7/23/19 (subject to same adjustment)

Expert(s) - discovery cutoff (if different from above): 8/6/19 (subject to

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CONT... Layfield & Barrett, APC

Chapter 11

same adjustment)

Dispositive motions to be heard no later than: TBD

Joint Status Report: 5/21/19.

Continued status conference: 6/4/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD
(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Richard M Pachulski

Represented By
James KT Hunter

Plaintiff(s):

Affeld Grivakes LLP

Represented By
Damion Robinson

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
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CONT... Layfield & Barrett, APC

Chapter 11

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Hearing Room 1545

2:00 PM

2:15-28443 Cloudbreak Entertainment, Inc.

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16, 9/6/16,
11/29/16, 12/13/16, 02/28/17, 4/25/17, 5/23/17, 7/11/17,
8/22/17, 10/03/17, 1/23/18, 1/30/18, 3/20/18, 5/1/18, 11/6/18,
1/29/19, 2/26/19, 4/9/18, 05/21/19

Docket 7

***** VACATED *** REASON: Cont. to 2/4/20 per 11/5/19 ruling.**

Tentative Ruling:

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards
Peter J Crosby

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2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

#9.00 Cont'd hrg re: Motion For Summary Judgment on all causes of action or in the alternative summary adjudication
fr. 10/15/19

Docket 36

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the status conference (calendar no. 10, 11/12/19 at 2:00 p.m.)

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference (calendar no. 9, 10/15/19 at 2:00 p.m.)

Tentative Ruling for 9/10/19:

Please see the tentative ruling for the status conference (calendar no. 2, 9/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
James R Selth
Michael D Anderson

Movant(s):

Forrest Fykes, SR

Represented By
Michael D Anderson

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Armen Janian

Chapter 7

	Leon Nazaretian James R Selth
Valerie Fykes	Represented By Michael D Anderson James R Selth
Forrest Fykes JR	Represented By Michael D Anderson James R Selth
Melissa Fykes	Represented By Michael D Anderson James R Selth

Plaintiff(s):

Forrest Fykes, SR	Represented By Michael D Anderson Leon Nazaretian James R Selth
Valerie Fykes	Represented By Michael D Anderson James R Selth
Forrest Fykes JR	Represented By Michael D Anderson James R Selth
Melissa Fykes	Represented By Michael D Anderson James R Selth

Trustee(s):

David M Goodrich (TR)	Pro Se
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2:15-25089 Armen Janian

Chapter 7

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

- #10.00** Cont'd Status Conference re: Complaint for Non-Dischargeability of Debtor Pursuant to 11 U.S.C. Section 523(a)(4) and 11 U.S.C. Section 523(a)(6) fr. 7/19/16, 12/13/16, 05/02/17, 09/12/17, 2/27/18, 6/12/18,10/9/18, 12/18/18, 1/29/19, 2/26/19, 5/7/19, 06/04/19; 08/06/19, 10/15/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

This Court anticipates issuing its Memorandum of Decision on Plaintiff's Motion for Summary Judgment prior to the hearing. Appearances required.

Tentative Ruling for 10/15/19:

Continue to 11/12/19 at 2:00 p.m. for finalization of this Court's written decision. That hearing will be a status conference on this adversary proceeding. Appearances are not required on 10/15/19.

Tentative Ruling for 9/10/19:

Appearances required.

(1) Current issues

(a) Plaintiffs' motion for summary judgment ("MSJ," adv. dkt. 36-39), Defendant's opposition (adv. dkt. 41, 42), Plaintiffs' reply (adv.dkt.43), Defendant's motion to strike (adv.dkt.44)

There is no tentative ruling. The parties are directed to address the procedural and substantive issues raised in their filed papers.

(2) Dates/deadlines

This adversary proceeding has been pending since 1/4/16. It has been continued multiple times to permit the parties to finish litigating in non-bankruptcy court.

The tentative ruling is to continue this status conference to 10/15/19 at

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Party Information

Debtor(s):

Armen Janian

Represented By
Leon Nazaretian

Defendant(s):

Armen Janian

Represented By
James R Selth
Michael D Anderson

Plaintiff(s):

Forrest Fykes, SR

Represented By
Michael D Anderson
Leon Nazaretian
James R Selth

Valerie Fykes

Represented By
Michael D Anderson
James R Selth

Forrest Fykes JR

Represented By
Michael D Anderson
James R Selth

Melissa Fykes

Represented By
Michael D Anderson
James R Selth

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Trustee(s):

David M Goodrich (TR)

Pro Se

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2:19-10552 Attitude Marketing, Inc.

Chapter 7

#11.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19;
08/06/19, 8/20/19, 9/24/19

Docket 43

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 11/12/19 at 2:00 p.m.)

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 13, 9/24/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 5/21/19 at 2:00 p.m.)

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CONT... Attitude Marketing, Inc.

Chapter 7

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 4/30/19 at 11:00 a.m.)

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim

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2:16-21559 David MacMillan

Chapter 7

#12.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19
08/06/19, 8/20/19, 9/24/19

Docket 332

Tentative Ruling:

Tentative Ruling for 11/12/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Calendaring

Continue the following matters to 12/17/19 at 2:00 p.m., with no status reports required:

(i) Status Conference, *In re Attitude Marketing, Inc.* (Case No. 2:19-bk-10552-NB) (calendar no. 11, 11/12/19 at 2:00 p.m.).

(ii) Status Conference, *In re David MacMillan/Cynthia Martin* (Case No. 2:16-bk-21559-NB) (this calendar no. 12, 11/12/19 at 2:00 p.m.).

(iii) Status Conference, *Wyndham Vacation Resorts, Inc. v. Cynthia Barrett Martin* (Case No. 2:17-ap-01551-NB) (calendar no. 14, 11/12/19 at 2:00 p.m.)

(iv) Status Conference, *Gonzalez v. MacMillan et al* (Case No. 2:16-ap-01545-NB) (calendar no. 15, 11/12/19 at 2:00 p.m.).

(v) Status Conference, *Wyndham Vacation Resorts, Inc. v. MacMillan et al* (Case No. 2:17-ap-01229) (calendar no. 17, 11/12/19 at 2:00 p.m.)

(b) Chapter 7 Trustee's motion for turnover and accounting ("Turnover Motion," In re MacMillan, Case No. 2:16-bk-21559-NB, dkt. 355, 356), Opposition Declaration (dkt. 361), Reply (dkt. 362), Wyndham Statement in Support (dkt. 368), Debtor MacMillan Supp. Decl. (dkt. 369), Trustee's Supplemental Reply (dkt. 371), and Debtor MacMillan Second Supp. Decl. (dkt. 379)

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This Court anticipates issuing its written decision on this matter prior to the hearing.

(c) Declaration of Daniel Eliades in further support of Wyndham's motion to compel (*Wyndham Vacation Resorts, Inc. v. MacMillan et al*, Case No. 2:17-ap-01229, dkt. 128), Aston Business Solution's opposition (dkt. 132), Wyndham's reply (dkt. 134), supplemental declaration of William Brownstein in support of Abston Business Solution's opposition (dkt. 135), declaration of Daniel Eliades in further support of Wyndham's declaration in support of motion to compel (dkt. 136), third declaration of Daniel Eliades in further support of Wyndham's motion for fees and costs (dkt. 142)

This Court anticipates issuing its written decision on this matter prior to the hearing.

(d) Status Conference, *Wyndham Vacation Resorts, Inc. v. MacMillan et al* (Case No. 2:17-ap-01229)

The tentative ruling is to take Wyndham's 11 U.S.C. 727(a)(4), (a)(5), and (a)(6) claims in Wyndham's Second Amended Complaint (adv. dkt. 151) under submission based on prior briefing and argument for the reasons stated in Wyndham's reply (adv. dkt. 157) to Debtors' brief (adv. dkt. 152).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

This Court will be issuing a written decision, prior to the hearing, on the matters under submission. Appearances required.

Tentative Ruling for 8/20/19:

This Court must continue this hearing to 9/24/19 at 2:00 p.m. to finalize its decision on these matters. Appearances are not required on 8/20/19.

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Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Calendaring

Continue the following matters to 8/6/19 at 2:00 p.m., with no status reports required:

(i) Status Conference, *In re Attitude Marketing, Inc.* (Case No. 2:19-bk-10552-NB) (calendar no. 11, 7/2/19 at 2:00 p.m.).

(ii) Status Conference, *In re David MacMillan/Cynthia Martin* (Case No. 2:16-bk-21559-NB) (this calendar no. 12, 7/2/19 at 2:00 p.m.).

(iii) Status Conference, *Gonzalez v. MacMillan et al* (Case No. 2:16-ap-01545-NB) (calendar no. 16, 7/2/19 at 2:00 p.m.).

(iv) Status Conference, *Wyndham Vacation Resorts, Inc. v. MacMillan et al* (Case No. 2:17-ap-01229) (calendar no. 18, 7/2/19 at 2:00 p.m.)

(b) Chapter 7 Trustee's motion for turnover and accounting ("Turnover Motion," In re MacMillan, Case No. 2:16-bk-21559-NB, dkt. 355, 356), Opposition Declaration (dkt. 361), Reply (dkt. 362), Wyndham Statement in Support (dkt. 368), Debtor MacMillan Supp. Decl. (dkt. 369), Trustee's Supplemental Reply (dkt. 371), and Debtor MacMillan Second Supp. Decl. (dkt. 379)

The tentative ruling is that Debtors have adequately explained the disposition of the Lotus race cars after review of the MacMillan second supplemental declaration (dkt. 379).

The Trustee should be prepared to apprise this Court about inspection of the Porsches, and any other outstanding issues.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19: [No tentative ruling was posted.]

Tentative Ruling for 5/21/19:
Appearances required.

(1) Current issues

(a) Calendaring

Continue the following matters to 6/11/19 at 2:00 p.m., to be concurrent with the motion for summary judgment in *Wyndham v. MacMillan et al.* (Adv. No. 2:17-ap-01229-NB, jointly administered with Adv. No. 2:17-ap-01551-NB), with no status reports required:

(i) Status Conference, *In re Attitude Marketing, Inc.* (Case No. 2:19-bk-10552-NB) (calendar no. 16, 5/21/19 at 2:00 p.m.).

(ii) Status Conference, *In re David MacMillan/Cynthia Martin* (Case No. 2:16-bk-21559-NB) (this calendar no. 12, 5/21/19 at 2:00 p.m.).

(iii) Motion for summary judgment in *Gonzalez v. MacMillan* (Adv. No. 2:17-ap-01545-NB) (originally self-calendared for 11:00 a.m. on 6/4/19, then moved by this Court sua sponte to 2:00 p.m. on 6/4/19).

(b) Chapter 7 Trustee's motion for turnover and accounting ("Turnover Motion," In re MacMillan, Case No. 2:16-bk-21559-NB, dkt. 355, 356), Opposition Declaration (dkt. 361), Reply (dkt. 362)

Grant as set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The tentative ruling is that Trustee has established on a *prima facie* basis that Debtors had an ownership interest in two Porches and three Lotus vehicles, and the burden is on Debtors to establish that they no longer have such an interest. The tentative ruling is that Debtors have only met that

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burden with respect to one vehicle (the Lotus as to which there is evidence of a sale to Debtor MacMillan's brother).

First, as a procedural matter, Debtors had an opportunity to respond to the Turnover Motion by the deadline established by the Local Bankruptcy Rules; they did not request additional time to respond; and, even if they had made such a request, they have not (on the present record) established any cause to be granted additional time. Second, based on the limited evidence provided by Debtors, they have not rebutted the Trustee's *prima facie* showing (except as to the one vehicle noted above).

For example, it appears that Debtors are the owners of record for at least three Lotus race cars - two Lotus Evoras and one Lotus 211. Dkt. 332, p. 6. Debtor MacMillan's declaration (dkt. 361) provides very little information about these vehicles.

Debtor MacMillan asserts that one Lotus vehicle was totaled around February 2012 (dkt. 361, p.3, para. 9), and that he no longer has any paperwork relating to that vehicle. But (i) the one photograph that he provides (allegedly of the subject vehicle) does not appear to show that it was totaled; (ii) he fails to explain why he lacks any paperwork; and (iii) normally one would expect to have paperwork regarding the loss of such a valuable vehicle, such as insurance papers, or tax returns for Debtor MacMillan or one of his businesses showing a write-off based on loss of the vehicle, or other records and documents. Although it is conceivable that there are explanations and documents that would establish that Debtor MacMillan does not still own this vehicle, he has not met his burden to rebut the Trustee's *prima facie* showing, and the deadline to do so has passed.

In addition, although the tentative ruling is that Debtor MacMillan has met his burden insofar as the unregistered 2011 Lotus Evora that allegedly was sold to his brother by Rasco/Racso (the spelling is unclear) in March 2016 (dkt. 361, p. 3, para 12), it appears that the Lotus Evora sold to Debtor's brother is not the same Lotus Evora mentioned in para. 10 (see dkt. 362, p.2:22-28). There is no evidence to rebut the *prima facie* showing as to that Lotus vehicle. Nor is there any evidence to rebut the *prima facie* showing as to the two Porches. Nor has Debtor Martin filed anything in response to the Turnover Motion.

The tentative ruling is to direct Debtors to turn over the two Lotus vehicles and the two Porches to the Chapter 7 Trustee, together with all associated papers and materials (e.g., car keys), **no later than 5/28/19**, or be

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subject to possible sanctions. This Court recognizes that, if Debtors truly do not possess some of these four vehicles, or if those vehicles belong to another entity, then perhaps they will be unable to turn over the vehicles despite any order of this Court directing them to do so. But the tentative ruling is that, having chosen not to take the Turnover Motion seriously enough to rebut the Trustee's *prima facie* showing, or to request additional time to do so, Debtors have waived and forfeited that opportunity, and the Turnover Motion must be granted.

Debtors' apparent remedy will be (i) to seek reconsideration (e.g., under Rule 9023), or, (ii) if they are held in contempt for violating the Turnover Motion, to meet their burden to show impossibility (or to establish any other viable defense to a finding of contempt). The parties should be prepared to address the present location and condition of the vehicles, where the Trustee needs them to be delivered, and any other specifics that this tentative ruling does not address.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue to 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.

Appearances are not required on 4/30/19.

This Court is not aware of any issues that warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required. The parties should be prepared to address the following issues.

Current issues

(a) Procedures

This Court issued its Order Setting Status Conference in All Related Matters (the "Procedures Order," dkt. 332). See *a/so* dkt. 334 & 338 (proofs of service). Among other things, the Procedures Order was prompted by the following.

First, an exhibit was filed without a cover page and with the exhibit pages out of order rendering the exhibit difficult to read (see dkt. 324, ex. 1). Second, briefs have gone on for 80 pages or more, with whole sections that appear to be at best tangentially related to the subject matter and appear to have been copied and pasted wholesale from other papers (but with no statement to let the reader know if those sections are or are not different in some way). See dkt. 326, 330. Third, those same papers, with exhibits included, are over 2000 pages long. Fourth, some papers appear to raise frivolous arguments (see below).

The tentative ruling is as follows with respect to procedures in all of the adversary proceedings and contested matters in these related bankruptcy cases:

(i) Page limits. Set a limit of 25 pages for any brief, and 50 pages of attached or accompanying documents, absent prior authorization to exceed those limits. The documents can be excerpts, marked up to point the reader to the relevant phrase or item, provided that (x) any original markings on the documents are clearly distinguishable from any added markings and (y) upon request full copies of all exhibits are immediately made available to all other parties and this Court.

(ii) Incorporation by reference. Direct all parties, rather than repeating their arguments and exhibits, to incorporate them by reference. In addition, to the extent any material does not exactly repeat prior material, but parallels prior material in substantial part, the tentative ruling is that the party must explain what is new or

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different.

For example, instead of a 10-page recitation of background facts in which one sentence is different, the party would replace those 10 pages with that one sentence and a brief summary of the relevant aspects of the prior material, with a cross-reference to the docket number of the material that is incorporated by reference. Alternatively, if the approach in the immediately preceding sentence would not be practical or would be confusing in any particular situation, then the party would add a footnote both at the start of the factual summary and at the start of the new or different sentence, to alert the reader that this is the portion that is new or different. Alternatively, the party could adopt any other suitable method for highlighting new or different material. In any event, all parties are directed to use whatever method is most reader-friendly for presenting accurate, relevant material.

(iii) Bifurcating or combining any matters, and issuing judgments on partial findings and/or final judgments on fewer than all claims or parties. The claim objections that are set for hearing today violate at least the spirit, and probably the letter, of Rule 3007(b) (Fed. R. Bankr. P.) ("A party in interest shall not include a demand for relief of a kind specified in Rule 7001 in an objection to the allowance of a claim, but may include the objection in an adversary proceeding."). In any event, any future claim objections involving the same nucleus of operative facts as any pending adversary proceeding must be raised through proper pleadings or motions in those adversary proceedings, not by separate claim objections.

In addition, there is no reason to litigate all of the numerous issues raised by the parties if it appears that it would be more efficient to litigate just one or two issues first, and enter judgements on partial findings, and/or enter final judgments as to fewer than all claims or parties (based on any express determination that there is "no just reason for delay") (Rules 52 & 54(b), Fed. R. Civ. P., incorporated by Rules 7052, 7054 & 9014(c), Fed. R. Bankr. P.). For example, if a hypothetical chapter 7 debtor were accused of dozens of acts and omissions that could warrant either nondischargeability of individual claims (11 U.S.C. 523) or denial of the entire discharge (11 U.S.C. 727), there might be no just reason

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not to enter a judgment determining a single issue, after bifurcation so as to have a separate trial on that issue. In this situation the single issue might be whether the hypothetical debtor had concealed or failed to maintain adequate recorded information (under section 727(a)(3)), which, if proven, presumably would moot the other issues under sections 523 and 727.

The parties are directed to address whether this Court should adopt such procedures for one or more issues in these cases and the related adversary proceedings and contested matters, or conversely whether this Court should combine various matters for joint hearings or trials. See Rule 42 (Fed. R. Civ. P., incorporated by Rules 7042 & 9014(c), Fed. R. Bankr. P.).

(iv) Testimony by declaration. Direct testimony must be presented by declaration, subject to live cross-examination and redirect (see Rule 611(a); *In re Gergely*, 110 F.3d 1448, 1451-52 (9th Cir. 1997); *In re Adair*, 965 F.2d 777, 779-80 (9th Cir. 1992)).

(v) Time limits. The parties are hereby put on notice that this Court at any time may limit their time for oral argument and presentation of their case. In addition, the parties are directed to address whether they would prefer that this Court impose such limits at this time, or at any pretrial conferences, or on the first day of trial, or during trial. See *generally*, Hon. Barry Russell, 2 *Bankr. Evid. Manual* (2018-19 Ed., Nov. 2018) 611:1, Examples 6&7).

(b) Objection by individual Debtors to Proof of Claim ("POC") No. 3 (dkt. 310)

Overrule the objection to POC No. 3, filed by Wyndham Vacation Resort, Inc ("Wyndham"), for the reasons stated in Wyndham's opposition (dkt. 326), and for the following additional reasons.

First, POC No. 3 has sufficient documentation and other information to establish its *prima facie* validity. Second, any lack of *prima facie* validity is not enough to disallow the claim under 11 U.S.C. 502. See *In re Orozco*, 2017 WL 3126797 (Case No. 2:13-bk-15745-NB, dkt. 132), and *In re Beoglyan* (Case No. 2:13-bk-22883-NB, dkt. 141).

The cases cited by Mr. MacMillan (dkt. 310, pp.2:28-3:1) are distinguishable or actually contrary to his position. See *In re Garner*, 246 B.R. 617 (9th Cir. BAP 2000) (when claim did have *prima facie* validity, opposition

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did not overcome that *prima facie* validity); and see *In re Stoecker*, 5 F.3d 1022, 1027-28 (7th Cir. 1993) (reversing disallowance of claim based on non-compliance with Rule 3001(f)); *In re Brunson*, 486 B.R. 759, 765-66, and 768-73 (Bankr. ND Tex. 2013) ("This court adheres to the majority view that a proof of claim may not be disallowed where the sole basis of objection is the creditor's failure to attach sufficient documentation under Bankruptcy Rule 3001") (emphasis added).

Indeed, as noted in *Brunson*, the 2011 amendments to "Bankruptcy Rule 3001(c)(2)(D), together with the Advisory Committee Note shedding light on its meaning, should end the debate." *Id.*, p.770 (emphasis added). Now it is clear that "[f]ailure to provide the required information does not itself constitute a ground for disallowance of a claim." *Id.* (quoting advisory committee note; emphasis added).

In view of the foregoing, the tentative ruling is that this objection to POC No. 3 is frivolous.

(c) Objection by individual Debtors to POC No. 18 (dkt. 312)

Overrule the objection to Americana Vacation Club and Stardust Vacation Club's ("Americana/Stardust") POC for the reasons stated in Americana/Stardust's opposition (dkt. 320) and for the same reasons as stated above in connection with POC No. 3. Debtors' Reply (dkt. 341) does not adequately address those reasons.

In view of the foregoing, the tentative ruling is that this objection to POC No. 18 is frivolous.

(d) Motion by individual Debtors to Dismiss bankruptcy case of Attitude Marketing, Inc. ("Attitude") (the "MTD," dkt. 307)

The tentative ruling is to deny the individual Debtors' MTD for the reasons stated in the Chapter 7 Trustee's opposition (dkt. 325) to the MTD, and for the following additional reasons.

As the Trustee notes, in this circuit a voluntary Chapter 7 debtor is entitled to dismissal of the case so long as such dismissal will cause no "plain legal prejudice" to interested parties, or perhaps just "legal prejudice" (without the "plain" modifier). *In re Leach*, 130 B.R. 855, 857 (9th Cir. BAP 1991) (citing pre-Bankruptcy Code case of *In re International Airport Inn Partnership*, 517 F.2d 510, 512 (9th Cir. 1975), and addressing how its principles should be applied under the Bankruptcy Code). The tentative ruling

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is that dismissal very much would cause plain legal prejudice to interested parties because dismissal would preclude the Trustee and creditors from using the bankruptcy process and powers (i) to investigate past and present alleged misconduct, (ii) to prevent acts and omissions for which there are grounds to be concerned, and which can drain the value of a potentially valuable asset of this bankruptcy estate, and (iii) to identify and recover any avoidable transfers.

Investigating all of these things is made all the more important by the allegations of a long history of Debtors purportedly evading judgments, settlement obligations, etc. Whether those allegations are accurate or not is an issue on which Debtors will have every legitimate opportunity to present arguments and evidence; but the tentative ruling is that they cannot avoid the determination of those bankruptcy-focused issues by obtaining a dismissal of their bankruptcy case.

Debtor's motion and reply papers (dkt. 339, 340) do not adequately address any of the foregoing, nor do they establish any reason why this Court would not recognize the Trustee's authority to file the bankruptcy petition pursuant to the Written Consent Of Shareholders In Lieu Of Meeting and the Written Consent Of Sole Director In Lieu Of Meeting attached to the Trustee's Opposition as Exhibit A (dkt. 325). The arguments attempting to dispute the Trustee's business judgment in causing Attitude's bankruptcy petition to be filed, or in filling out Attitude's bankruptcy schedules, or in administering Attitude's assets, are unpersuasive and unsupported by any meaningful evidence. The individual Debtors' flat denials of the claims against Attitude, without persuasive or even colorable arguments or evidence, are insufficient.

The tentative ruling is that the individual Debtors' arguments are frivolous. In any event, the paucity of those arguments only reinforces the need for the Trustee to take over management of Attitude.

Proposed orders: The Trustee and the Claimants are directed to lodge proposed orders on each of the foregoing matters "(1)(b)," "(c)," and "(d)" via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B). This Court will prepare an order on matter "(1)(a)."

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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#13.00 Cont'd hrg re: Motion for Turnover of Estate Property and Accounting
fr. 05/21/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19

Docket 355

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 11/12/19 at 2:00 p.m.)

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 13, 9/24/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the status conference (calendar no. 12, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the status conference (calendar no. 4, 6/4/19 at 2:00 p.m.)

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 12, 5/21/19 at 2:00 p.m.)

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Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Movant(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#14.00 Cont'd Status Conference re: Complaint Objecting to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18, 4/9/19; 04/30/19, 05/21/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the status conference in the related adversary proceeding (calendar no. 17, 11/12/19 at 2:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the status conference in the related adversary proceeding (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 18, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 18, 7/2/19 at 2:00 p.m.).

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 9, 6/4/19 at 2:00 p.m.).

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Tentative Ruling for 5/21/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 14, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the adversary proceeding this proceeding is being jointly administered with (calendar no. 5, 4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Tentative Ruling for 1/30/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address (a) why they failed to file the required status report, (b) why the motions for joint administration/consolidation of the two closely related adversary proceedings have not been prosecuted, and (c) the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See *generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr.

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(2) Mediation. Is there is any reason why this court should not formalize the fact that the pending mediation includes this adversary proceeding by issuing an order to mediate this matter together with related adversary proceeding (2:17-ap-01229-NB)? The tentative ruling is to direct counsel for the defendants to lodge a proposed order to that effect.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C. Vanderhoof
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#15.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 04/09/19, 04/30/19, 5/7/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 11/12/19 at 2:00 p.m.)

Tentative Ruling for 9/24/19:

This Court will be issuing a written decision, prior to the hearing, on the matters under submission. Appearances required.

Tentative Ruling for 8/20/19:

At the 6/4/19 hearing this Court took the Motion for Summary Judgment (adv. dkt. 53) under submission and anticipates issuing an order on that motion at a later time, and addressing the other matters in these related proceedings at a continued hearing on 9/24/19 at 2:00 p.m.

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 5/7/19:

Continue as set forth below. Appearances are not required on 5/7/19.

(1) Current issues. This Court is not aware of any issues that would warrant a status conference at this time.

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(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dct. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

(3) Deadlines: This adversary proceeding has been pending since 11/21/17.

Discovery cutoff (for *completion* of discovery): 3/25/19 (adv. dkt. 48)

Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)

Expert(s) - discovery cutoff (if different from above):

Dispositive motions to be heard no later than: 2/11/19 [previously set,

but parties appear to assume that deadline will be excused (see dkt. 53)]

Joint Status Report: 5/7/19

Continued status conference: 6/4/19 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Appearances required.

From the prior status report (adv. dkt. 50) it appears that the previously ordered deadlines (adv. dkt. 48) may need to be revised. The parties are directed to address that issue.

(1) Motion for summary judgment ("MSJ," adv.dkt. 43). Contrary to the

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posted Procedures of Judge Bason, Plaintiff self-calendared the MSJ. In addition, the MSJ is set for 10:00 a.m. (on 6/4/19), which is this Court's relief from stay calendar. The tentative ruling is to reschedule the hearing to 2:00 p.m. on 6/4/19.

(2) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (see adv.dct. 23 and compare adv.dkt.50) (ABS Defendants' jury trial demand).

(3) Deadlines: This adversary proceeding has been pending since 11/21/17.

Discovery cutoff (for completion of discovery): 3/25/19 (adv. dkt. 48)

Expert(s) - deadline for reports: 4/15/19 (adv. dkt. 48)

Expert(s) - discovery cutoff (if different from above):

Dispositive motions to be heard no later than: 2/11/19 [needs revision]

Joint Status Report: 5/7/19

Continued status conference: 6/4/19 at 2:00 p.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Address procedural issues and then continue this status conference as set forth below. Appearances required.

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Current issues

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.).

(b) Continued hearing

The tentative ruling is to continue this status conference to 4/30/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required.

The tentative ruling is to continue this status conference to 5/7/19 at 11:00 a.m. with no written status report required prior to that continued date.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

The tentative ruling is (1) to continue this status conference to 3/26/19 at 11:00 a.m., with no written status report required prior to that continued date, and (2) to extend the discovery cut off to 3/15/19 per the parties' Joint Status Report (adv. dkt. 45). Plaintiff is directed to lodge a proposed scheduling order containing this new deadline, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to

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form. Appearances are not required on 2/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Appearances required. The parties are directed to address why no timely status report was filed as required by the oral ruling at the 12/11/18 status conference. The parties are also directed to provide an oral status report. The tentative ruling is to continue this status conference to 2/26/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/11/18:

Appearances required. The parties should be prepared to address (1) why a proposed order memorializing the extended deadlines was not lodged, as directed in the adopted tentative ruling for 11/6/18 (reproduced below) and (2) why a timely status report was not filed as required by that same adopted tentative ruling. The tentative ruling is to continue this status conference to 1/29/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/6/18:

(1) Extend various deadlines as set forth below. (2) Continue this Status Conference to 12/11/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 38), with a brief status report due 12/4/18. Appearances are not required on 11/6/18.

Extended deadlines: Extend the discovery cutoff to 2/28/19 (per adv. dkt. 38, p.2:7-9), with an extension of the same number of days for the other remaining deadlines in this Court's scheduling order (adv. dkt. 34) (*i.e.*, the deadline for exchange of any expert reports, and for any hearing on any dispositive motions). In addition, add a deadline for the close of discovery from experts (depositions etc.) two weeks after their reports are due. Plaintiff is directed to lodge a proposed scheduling order containing these new deadlines, and to file and serve a notice of lodgment or else obtain the signature of Defendants' counsel approving the order as to form.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Continue to 11/6/18 at 11:00 a.m., based on the parties' status report (adv. dkt. 37). Brief status report due 10/30/18. Appearances are not required on 10/9/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/14/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The court has reviewed the parties' joint status report (adv. dkt. 23) and the other filed documents and records in this adversary proceeding.

The plaintiff states (dkt. 23, p.2) that he requested entry of a default against defendants Andrae Perez and Accelerated Capital Group, Inc., but the Clerk of this Court has issued notices of non-entry of defaults (dkt. 15, 16). When will the plaintiff correct the deficiencies?

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. docket number(s) 23).

(2) Deadlines: This adversary proceeding has been pending since 11/21/17. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 12/31/18

Expert(s) - deadline for reports: 1/14/19

Dispositive motions to be heard no later than: 2/11/19

Joint Status Report: 9/4/18

Continued status conference: 9/18/18 at 11:00 a.m.; brief status report due 9/4/18.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/12/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This matter was further continued to today's date for the parties to participate in mediation on or about 5/21/18 (see Order, adv. dkt. 21). This Court also directed the parties to file a status report by 5/29/18, but the parties have not done so--for a second time.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/17/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 3/6/18 hearing, this Court continued the matter to allow the parties time to meet and confer about the various deadlines that this court should set in this adversary proceeding and/or court-ordered mediation. This

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court also directed the parties to file a status report by 4/3/18, but the parties have not done so.

There is no tentative ruling, but the parties are directed to address why they have not filed a status report, and to provide an oral status report, and are cautioned that continued failure to adhere to the applicable rules and orders of this Court may result in sanctions. The tentative ruling is to continue this status conference to 5/29/18 at 11:00 a.m. with a brief status report due 5/15/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties requested a brief continuance of this status conference from 2/27/18 to today's date (see Joint Status Report, adv. dkt. 10). At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). There is no tentative ruling, but the parties should be prepared to discuss the status of this case.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 2/27/18:

Continue to 3/6/18 at 11:00 a.m. Appearances are not required on 2/27/18.

Reasons: At the status conference on 1/23/18 there was no appearance for the plaintiff, and this Court was persuaded that it was premature to adopt the deadlines stated in the tentative ruling for that status conference (reproduced below). The plaintiff and one defendant (the debtor) have now filed a joint status report (adv. dkt. 10) requesting a brief continuance.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/23/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address why they failed to file the required status report, and also the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014)

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(authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 2/6/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines/dates: This adversary proceeding has been pending since 11/21/17. The tentative ruling is to set the following deadlines/dates. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 5/1/18

Expert(s) - deadline for reports: 5/8/18

Expert(s) - discovery cutoff (if different from above): 5/15/18

Dispositive motions to be heard no later than: 6/26/18

Joint Status Report: 2/6/18

Continued status conference: 2/27/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

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Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan et al

#16.00 Cont'd hrg re: Declaration of Daniel M. Eliades in Further Support of Wyndham Vacation Resort Inc.'s Motion to Compel fr. 7/30/19; 08/06/19, 8/20/19, 9/24/19

Docket 128

Tentative Ruling:

Tentative Ruling for 11/2/19:

Please see tentative ruling for the adversary status conference (calendar no. 17, 11/12/19 at 2:00 p.m.).

Tentative Ruling for 9/24/19:

Please see tentative ruling for the adversary status conference (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/30/19:

Continue to 8/6/19 at 2:00 p.m., to be heard concurrently with the other David MacMillan bankruptcy (2:16-bk-21559-NB) related matters. Appearances are not required on 7/30/19.

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

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Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan et al

#17.00 Cont'd Status Conference re: Complaint to Determine Non-Dischargeability of Debt fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the main case status conference (calendar no. 12, 11/5/19 at 2:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the adversary status conference (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

At the 6/4/19 hearing this Court took the Motion for Summary Judgment (adv. dkt. 98) under submission and anticipates issuing an order at a later time.

Tentative Ruling for 6/4/19:

[No tentative ruling was posted]

Tentative Ruling for 5/21/19:

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Appearances are not required on 5/21/19. The tentative ruling is to continue the hearings in these related adversary proceedings (calendar no. 13 & 14, 5/21/19) to the date of the continued status conference (see below).

(1) Current issues

The tentative ruling on the Motion to Compel (dkt. 104) and the Order to Show Cause ("OSC," dkt. 107) is to continue these matters as requested in the response of Aston Business Solutions, Inc. (dkt. 110, 111). This Court contemplates that the deadlines for completion of discovery and other matters will need to be extended, and the parties are directed to meet and confer and, if they can agree to new deadlines, lodge a proposed order. If they cannot agree, this Court anticipates setting new deadlines at the continued status conference.

(2) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(3) Deadlines

This adversary proceeding has been pending since 4/7/17.
Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).
Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).
Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).
Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).
Dispositive motions to be heard no later than: TBD
Joint Status Report: N/A
Continued status conference: 6/11/19 at 2:00 p.m. No written status report required.
Lodge Joint Proposed Pre-Trial Order: TBD
Pretrial conference: TBD
Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")
Trial commencement: TBD

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

This Court has reviewed the latest filed documents in this adversary proceeding and is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Supplemental Tentative Ruling for 4/9/19:

The original tentative ruling (below) provides two inconsistent dates for a continued status conference: 4/30/19 at 11:00 a.m., 4/7/19 at 11:00 a.m. The latter [should be "former"] is correct. No status report required.

Tentative Ruling for 4/9/19:

Deny the motion to quash (with the possible exception of one aspect), address procedural issues, and then continue this Status Conference, all as set forth below. Appearances required.

Current issues:

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(b) Motion to Quash (adv. dkt. 84)

The tentative ruling is that the motion to quash (adv. dkt. 84) by Aston Business Solutions, Inc. ("ABS") is unpersuasive, except perhaps for limitations as to time, which the parties are directed to address at the hearing.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(A) Analysis re motion to quash

ABS asserts only vague objections:

(1) Competitors?

ABS asserts that it and Plaintiff are competitors. How so?

The motion does not even disclose ABS' business. Is it a timeshare

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owner? Is it a timeshare operator? Is it something else? (As noted below, this Court expects that it has gleaned the answer from other documents, but the tentative ruling is that this lack of even such basic information in the motion is fatal to this argument.)

(2) Protected information?

ABS alleges that some sort of trade secrets or other confidential, privileged, or other type of protected information is involved. What sort of information? Why would a traditional privilege log and other tools be inadequate?

ABS complains that parties in interest in this bankruptcy case have shared information. But ABS fails to point to any prohibition on sharing information.

(3) Burden?

ABS alleges that the requested discovery is unduly burdensome. How so? Is it stored in thousands of boxes of paper files that are difficult to reach and review for some reason?

(4) Vagueness and overbreadth?

ABS alleges that the discovery requests are vague and overbroad. How so? ABS fails to provide any explanation or evidence to support this allegations.

(5) Discussion

Based on a question (not an answer) in excerpts from the deposition of ABS' President and shareholder, Glenn Chaffin, ABS may be a marketing company for "timeshare exit companies." Adv. dkt. 84, Ex.1 (Depo. Tr. 1/24/19), p.95:22-23. But how does that make ABS a "competitor" of Plaintiff, with information that would constitute trade secrets, as opposed to a facilitator of (possibly) legitimate ways to exit timeshares, who sends out non-secret flyers and other publicly known marketing materials, and assists timeshare members in navigating contracts that are known to all the parties?

Such a facilitator theoretically could benefit Plaintiff, by replacing non-paying or troubled members with paying ones - unless, of course, ABS engages in acts that improperly interfere with contractual relations or otherwise assists in the wrongdoing of which Plaintiff accuses Defendants. Plaintiff's discovery appears to be targeted at discovering information that could lead to admissible evidence on this and other relevant issues.

Accordingly, the discovery appears to be entirely proper and appropriate, with the possible exception of the movant's request to impose some limitations as

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to time, which the parties are directed to address at the hearing.

(B) Adversary proceeding status conference issues

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Continued status conference: 4/30/19 at 11:00 a.m., no status report required.

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

This Court has reviewed the latest filed documents in this adversary proceeding, including the parties' status reports (dkt. 89, 91). This Court is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for completion of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).

Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).

Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).

Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).

Dispositive motions to be heard no later than: TBD

Joint Status Report: 3/12/19.

Continued status conference: 3/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David MacMillan

Represented By
Robert S Altagen

Cynthia Barrett Martin

Represented By
Robert S Altagen

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Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:19-10762 Koi Design LLC

Chapter 11

#18.00 Cont'd Status Conference re: Chapter 11 Case
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4/22/19, 5/14/19, 6/11/19, 7/30/19, 9/24/19, 10/15/19

Docket 1

Tentative Ruling:

Correction to Tentative Ruling for 11/12/19:

Appearances **ARE** required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/12/19:

Appearances are not required on 10/15/19.

(1) Current issues

(a) Debtor's chapter 11 plan of reorganization (dkt. 208) & disclosure statement (dkt. 209)

This Court will review these documents on a preliminary basis, and anticipates setting a deadline for any blacklined changes to be filed, and setting a combined hearing on whether to approve the disclosure statement and confirm the Plan.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19, dkt. 82).

(b) Procedures order: dkt. 39 (timely served, dkt. 91)

(b) Plan/Disclosure Statement (dkt. 208, 209)*: This Court anticipates setting deadlines and procedures at the hearing.

(c) Continued status conference: 12/17/19 at 1:00 p.m., *brief* written

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

2:00 PM

CONT...

Koi Design LLC

Chapter 11

status report due 12/3/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

Appearances are not required on 10/15/19.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19, dkt. 82).

(b) Plan/Disclosure Statement*: TBD (see dkt.199, order extending exclusivity).

(c) Continued status conference: 12/17/19 at 1:00 p.m., *brief* written status report due 12/3/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 12, 2019

Hearing Room 1545

2:00 PM

CONT... Koi Design LLC

Chapter 11

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-12436 Richard Tchicaya Missamou and Ana Tchicaya Missamou

Chapter 7

**#1.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation**

Docket 66

Party Information

Debtor(s):

Richard Tchicaya Missamou

Represented By
Elena Steers

Joint Debtor(s):

Ana Tchicaya Missamou

Represented By
Elena Steers

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-12436 Richard Tchicaya Missamou and Ana Tchicaya Missamou

Chapter 7

**#2.00 Hrg re: Reaffirmation Agreement
Navy Federal Credit Union**

Docket 70

Party Information

Debtor(s):

Richard Tchicaya Missamou

Represented By
Elena Steers

Joint Debtor(s):

Ana Tchicaya Missamou

Represented By
Elena Steers

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17017 Sheila Rene Cook

Chapter 7

**#3.00 Hrg re: Reaffirmation Agreement
Exeter Finance LLC**

Docket 12

Party Information

Debtor(s):

Sheila Rene Cook

Pro Se

Trustee(s):

Timothy Yoo (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17192 Jorge A Ortiz and Maria Isaura Calderon Interiano

Chapter 7

**#4.00 Hrg re: Reaffirmation Agreement
TD Auto Finance LLC (2018 Nissan Kicks)**

Docket 21

Party Information

Debtor(s):

Jorge A Ortiz Pro Se

Joint Debtor(s):

Maria Isaura Calderon Interiano Pro Se

Trustee(s):

Edward M Wolkowitz (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17259 Joel Antonio Flores Aguilar

Chapter 7

**#5.00 Hrg re: Reaffirmation Agreement
Twenty-One Eighty-Five, L.L.C.**

Docket 10

Party Information

Debtor(s):

Joel Antonio Flores Aguilar

Represented By
Daniel King

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17446 Luis Manuel Zavala and Anabel Zavala

Chapter 7

**#6.00 Hrg re: Reaffirmation Agreement
Ford Motor Credit Company LLC (2016 Ford Focus)**

Docket 13

Party Information

Debtor(s):

Luis Manuel Zavala

Represented By
Elena Steers

Joint Debtor(s):

Anabel Zavala

Represented By
Elena Steers

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17446 Luis Manuel Zavala and Anabel Zavala

Chapter 7

**#7.00 Hrg re: Reaffirmation Agreement
Ford Motor Credit Company LLC (2015 Ford Flex)**

Docket 14

Party Information

Debtor(s):

Luis Manuel Zavala

Represented By
Elena Steers

Joint Debtor(s):

Anabel Zavala

Represented By
Elena Steers

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17558 Maria Luisa Garcia

Chapter 7

**#8.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation**

Docket 10

Party Information

Debtor(s):

Maria Luisa Garcia

Represented By
Omar Zambrano

Trustee(s):

Elissa Miller (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17625 Shelly Claisse

Chapter 7

#9.00 Hrg re: Reaffirmation Agreement
Kinecta Federal Credit Union

Docket 13

*** VACATED *** REASON: Withdrawal of Reaffirmation Agreement
filed 09/23/19 - Dkt. #16

Party Information

Debtor(s):

Shelly Claisse

Represented By
Kevin Tang

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17832 Cesar Luna

Chapter 7

#10.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation

Docket 17

Party Information

Debtor(s):

Cesar Luna

Represented By
Cynthia Grande

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-17915 ELIZABETH DELGADO

Chapter 7

#11.00 Hrg re: Reaffirmation Agreement
American Honda Finance Corporation

Docket 10

Party Information

Debtor(s):

ELIZABETH DELGADO

Represented By
Khushwant Sean Singh

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-18312 Raymond Anthony Volanos and Sandra Corie Volanos

Chapter 7

**#12.00 Hrg re: Reaffirmation Agreement
Golden 1 Credit Union**

Docket 13

Party Information

Debtor(s):

Raymond Anthony Volanos

Represented By
Philomena N Nzegge

Joint Debtor(s):

Sandra Corie Volanos

Represented By
Philomena N Nzegge

Trustee(s):

Heide Kurtz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-18615 Silvia Nineth Rivas-Archila

Chapter 7

**#13.00 Hrg re: Reaffirmation Agreement
Bank of the West**

Docket 12

Party Information

Debtor(s):

Silvia Nineth Rivas-Archila

Represented By
Michael H Colmenares

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-18636 Christian Santos and Melissa Anne Santos

Chapter 7

**#14.00 Hrg re: Reaffirmation Agreement
Westlake Financial Services**

Docket 11

Party Information

Debtor(s):

Christian Santos Pro Se

Joint Debtor(s):

Melissa Anne Santos Pro Se

Trustee(s):

Jason M Rund (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-18742 Odalys Olivera Fernandez

Chapter 7

#15.00 Hrg re: Reaffirmation Agreement
Nissan Motor Acceptance Corporation

Docket 9

Party Information

Debtor(s):

Odalys Olivera Fernandez

Represented By
Lisa F Collins-Williams

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-18892 Rick Mauro Vega

Chapter 7

**#16.00 Hrg re: Reaffirmation Agreement
Ally Bank**

Docket 9

Party Information

Debtor(s):

Rick Mauro Vega

Pro Se

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-18953 Mallory Regina Jones

Chapter 7

**#17.00 Hrg re: Reaffirmation Agreement
Credit Human Federal Credit Union**

Docket 8

Party Information

Debtor(s):

Mallory Regina Jones

Represented By
Raymond J Bulaon

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-18978 Jamilet Lopez

Chapter 7

#18.00 Hrg re: Reaffirmation Agreement
American Honda Finance Corporation

Docket 13

Party Information

Debtor(s):

Jamilet Lopez

Represented By
Chris T Nguyen

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19097 Sungju Lee

Chapter 7

**#19.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation**

Docket 9

Party Information

Debtor(s):

Sungju Lee

Represented By
Stephen S Smyth

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19374 Carmen Ofelia Fuentes

Chapter 7

#20.00 Hrg re: Reaffirmation Agreement
American Honda Finance Corporation

Docket 11

Party Information

Debtor(s):

Carmen Ofelia Fuentes

Pro Se

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19532 Michelle Louise Johns

Chapter 7

#21.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation

Docket 15

Party Information

Debtor(s):

Michelle Louise Johns

Pro Se

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19549 Robin Michael Cruz

Chapter 7

#22.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation

Docket 18

Party Information

Debtor(s):

Robin Michael Cruz

Pro Se

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19590 Milton I Jaramillo Cruz

Chapter 7

**#23.00 Hrg re: Reaffirmation Agreement
Mechanics Bank**

Docket 9

Party Information

Debtor(s):

Milton I Jaramillo Cruz

Represented By
Sevag Nigoghosian

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19590 Milton I Jaramillo Cruz

Chapter 7

**#24.00 Hrg re: Reaffirmation Agreement
Bank of the West**

Docket 11

Party Information

Debtor(s):

Milton I Jaramillo Cruz

Represented By
Sevag Nigoghosian

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19590 Milton I Jaramillo Cruz

Chapter 7

#25.00 Hrg re: Reaffirmation Agreement
Nissan Motor Acceptance Corporation

Docket 15

Party Information

Debtor(s):

Milton I Jaramillo Cruz

Represented By
Sevag Nigoghosian

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1668 Calendar**

Thursday, November 14, 2019

Hearing Room 1668

10:00 AM

2:19-19633 Rodolfo Duran Dugenia and Alicia Marcelo Dugenia

Chapter 7

#26.00 Hrg re: Reaffirmation Agreement
Westlake Finance Services

Docket 12

Party Information

Debtor(s):

Rodolfo Duran Dugenia

Represented By
Peter M Lively

Joint Debtor(s):

Alicia Marcelo Dugenia

Represented By
Peter M Lively

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19635 Karla Ivette Zenteno Suarez

Chapter 7

**#27.00 Hrg re: Reaffirmation Agreement
Nissan-Infiniti LT**

Docket 8

Party Information

Debtor(s):

Karla Ivette Zenteno Suarez

Represented By
Peter M Lively

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19637 Tracy Joann Davis-Cooper

Chapter 7

#28.00 Hrg re: Reaffirmation Agreement
Bridgecrest Credit Company, LLC

Docket 8

Party Information

Debtor(s):

Tracy Joann Davis-Cooper

Represented By
Peter M Lively

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19664 Cindy Farias

Chapter 7

**#29.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation**

Docket 9

Party Information

Debtor(s):

Cindy Farias

Represented By
Glenn Ward Calsada

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19770 Tawny Marie Garcia

Chapter 7

#30.00 Hrg re: Reaffirmation Agreement
Gateway One Lending & Finance, LLC

Docket 9

Party Information

Debtor(s):

Tawny Marie Garcia

Represented By
Barry E Borowitz

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19777 Bertha Alfaro

Chapter 7

#31.00 Hrg re: Reaffirmation Agreement
Logix Federal Credit Union, 2013 Nissan Titan SV

Docket 8

Party Information

Debtor(s):

Bertha Alfaro

Represented By
Matthew D. Resnik

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19786 Lazara Juana Amador Sotolongo

Chapter 7

**#32.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation**

Docket 9

Party Information

Debtor(s):

Lazara Juana Amador Sotolongo

Represented By
Marlin Branstetter

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-19851 Diego Alberto Hernandez

Chapter 7

**#33.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation**

Docket 8

Party Information

Debtor(s):

Diego Alberto Hernandez

Represented By
Michael H Colmenares

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20040 Nadine Christian

Chapter 7

**#34.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation**

Docket 10

Party Information

Debtor(s):

Nadine Christian

Represented By
Heather J Canning

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20145 Maria Clara Valdes De Mejia

Chapter 7

#35.00 Hrg re: Reaffirmation Agreement
Don Roberto Jewelers Inc.

Docket 8

Party Information

Debtor(s):

Maria Clara Valdes De Mejia

Represented By
Lauren M Foley

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20165 David G Juarez and Maria R Juarez

Chapter 7

#36.00 Hrg re: Reaffirmation Agreement
Bank of America, N.A.

Docket 8

Party Information

Debtor(s):

David G Juarez Pro Se

Joint Debtor(s):

Maria R Juarez Pro Se

Trustee(s):

Rosendo Gonzalez (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20195 Marco Antonio Gonzalez Guevara and Veronica Rosales

Chapter 7

**#37.00 Hrg re: Reaffirmation Agreement
Gateway One Lending & Finance, LLC**

Docket 11

Party Information

Debtor(s):

Marco Antonio Gonzalez Guevara

Represented By
Hale Andrew Antico

Joint Debtor(s):

Veronica Rosales

Represented By
Hale Andrew Antico

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20196 Michelle Lynn Bryant

Chapter 7

**#38.00 Hrg re: Reaffirmation Agreement
Hyundai Motor Finance**

Docket 8

Party Information

Debtor(s):

Michelle Lynn Bryant

Represented By
Hale Andrew Antico

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20357 Chance Shawn Rawleigh

Chapter 7

#39.00 Hrg re: Reaffirmation Agreement
VW Credit, Inc

Docket 8

Party Information

Debtor(s):

Chance Shawn Rawleigh

Represented By
Sanaz S Bereliani

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20370 Francis Katherine Monroy

Chapter 7

**#40.00 Hrg re: Reaffirmation Agreement
Kia Motors Finance**

Docket 8

Party Information

Debtor(s):

Francis Katherine Monroy

Represented By
Heather J Canning

Trustee(s):

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20411 Deanna Claudine Bernal-Higuera

Chapter 7

**#41.00 Hrg re: Reaffirmation Agreement
Alaska USA Federal Credit Union**

Docket 11

Party Information

Debtor(s):

Deanna Claudine Bernal-Higuera Pro Se

Trustee(s):

Brad D Krasnoff (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20495 Kyle Ric Eaton

Chapter 7

**#42.00 Hrg re: Reaffirmation Agreement
Nissan Motor Acceptance Corp.**

Docket 10

Party Information

Debtor(s):

Kyle Ric Eaton

Represented By
Charles J Brash

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20606 Robert Julian Saldivar, III

Chapter 7

**#43.00 Hrg re: Reaffirmation Agreement
CarMax Auto Finance**

Docket 11

Party Information

Debtor(s):

Robert Julian Saldivar III

Represented By
Michael E Clark

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20626 Marco Tulio Galindo

Chapter 7

#44.00 Hrg re: Reaffirmation Agreement
Toyota Motor Credit Corporation

Docket 9

Party Information

Debtor(s):

Marco Tulio Galindo

Represented By
Glenn Ward Calsada

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 14, 2019

Hearing Room 1545

10:00 AM

2:19-20741 Maria Antonia Figueredo

Chapter 7

#45.00 Hrg re: Reaffirmation Agreement
OneMain Financial

Docket 7

Party Information

Debtor(s):

Maria Antonia Figueredo

Represented By
Kenumi T Maatafale

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 19, 2019

Hearing Room 1545

9:00 AM

2:18-12286 Kevin James Quinn

Chapter 7

Adv#: 2:18-01158 Duff v. Quinn

#1.00 Cont'd Trial re: Complaint for Objecting to Debtor's
Discharge Pursuant to Section 727 of the Bankruptcy Code
fr. 08/07/18, 11/27/18, 2/5/19, 3/28/19, 06/06/19; 08/08/19

Docket 1

***** VACATED *** REASON: Continued to 2/20/20 at 9:00 a.m.**

Tentative Ruling:

Party Information

Debtor(s):

Kevin James Quinn

Represented By
John F Wolcott

Defendant(s):

Kevin James Quinn

Pro Se

Plaintiff(s):

James T Duff

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 19, 2019

Hearing Room 1545

4:00 PM

2:19-23048 Susan Spell

Chapter 13

#1.00 Hrg re: Motion for relief from stay [UD]

G&L 436 BEDFORD LLC
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases, under *In re Vazquez*, 580 B.R. 526

**United States Bankruptcy Court
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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, November 19, 2019

Hearing Room 1545

4:00 PM

CONT...

Susan Spell

Chapter 13

(Bankr. C.D. Cal. 2017)). The tentative ruling is to deny that request for lack of adequate cause shown.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Susan Spell

Represented By
Anil Bhartia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-14377 Raquel Espericueta

Chapter 13

#1.00 Hrg re: Motion to Avoid Lien junior lien
with creditor: Nationstar Mortgage, LLC

Docket 36

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Raquel Espericueta

Represented By
Axel H Richter

Movant(s):

Raquel Espericueta

Represented By
Axel H Richter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-19090 Jose A. Vallejos

Chapter 13

#2.00 Hrg re: Motion for order determining value of collateral
[11 U.S.C. section 506(a), FRBP 3012]

Docket 18

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose A. Vallejos

Represented By
Donald E Iwuchuku

Movant(s):

Jose A. Vallejos

Represented By
Donald E Iwuchuku

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-19550 Joanne Veto Roth

Chapter 13

#3.00 Hrg re: Motion for order determining value
of collateral [11 U.S.C. section 506(a), FRBP 3012]

Docket 16

Tentative Ruling:

Grant in part, setting the value of the vehicle at \$16,050, as that is the "replacement value" that a retail merchant would charge the public for a vehicle of similar age and condition, as of the petition date, without deduction for costs of sale or marketing. See dkt. 16, Ex. 1; 11 U.S.C. 506(a)(2).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joanne Veto Roth

Represented By
Todd L Turoci

Movant(s):

Joanne Veto Roth

Represented By
Todd L Turoci

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-19674 Angela Marie Polizzi

Chapter 13

#4.00 Hrg re: Motion for order determining value of collateral [11 U.S.C. section 506(a), FRBP 3012]

Docket 25

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Angela Marie Polizzi

Represented By
Matthew D. Resnik

Movant(s):

Angela Marie Polizzi

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-20473 Sharyl Gwen Bloom

Chapter 13

#5.00 Hrg re: Motion to Convert Case From Chapter 13 to 11

Docket 39

***** VACATED *** REASON: Moot. Case dismissed on 10/25/19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sharyl Gwen Bloom

Represented By
Jonathan Matthews

Movant(s):

Sharyl Gwen Bloom

Represented By
Jonathan Matthews

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:16-21122 George Ramirez and Michella Patricia Ramirez

Chapter 13

#6.00 Hrg re: Application of attorney for debtor for additional fees and related expenses in a pending chapter 13 case subject to a rights and responsibilities agreement (RARA)

Docket 77

Tentative Ruling:

Appearances are not required. In view of Mr. Munoz' declaration (dkt.82), responding to this Court's order (dkt.79) this Court will grant the requested fees (dkt.77).

Proposed order: Mr. Munoz is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

George Ramirez

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Michella Patricia Ramirez

Represented By
Ramiro Flores Munoz

Movant(s):

George Ramirez

Represented By
Ramiro Flores Munoz

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

CONT... George Ramirez and Michella Patricia Ramirez

Chapter 13

Michella Patricia Ramirez

Represented By

Ramiro Flores Munoz

Ramiro Flores Munoz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:18-18815 Nicole Leesuvat-Anderson

Chapter 13

**#7.00 Hrg re: Motion to Disallow Claims #6-1
of American Express National Bank**

Docket 53

***** VACATED *** REASON: Cont. to 12/19/19 at 8:30 per stip. (dkt. 67)
and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicole Leesuvat-Anderson

Represented By
Andrew Moher

Movant(s):

Nicole Leesuvat-Anderson

Represented By
Andrew Moher

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

8:30 AM

2:18-18815 Nicole Leesuvat-Anderson

Chapter 13

#8.00 Hrg re: Motion to Disallow Claim #7-1
of American Express National Bank

Docket 55

***** VACATED *** REASON: Cont. to 12/19/19 at 8:30 per stip. (dkt. 67)
and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicole Leesuvat-Anderson

Represented By
Andrew Moher

Movant(s):

Nicole Leesuvat-Anderson

Represented By
Andrew Moher

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:18-19016 Marlon Durelle Watson

Chapter 13

#9.00 Hrg re: Debtor's objection and Motion to Disallow
proof of Claims of creditor Franchise Tax Board

Docket 37

Tentative Ruling:

Deny as set forth below. Appearances are not required.

Proposed order: This Court will prepare the order.

(1) Analysis

(a) Procedures

(i) Service is inadequate. Debtor's proof of service (dkt. 37) does not reflect that the claim objection was served on the Franchise Tax Board ("FTB") in accordance with Rule 7004(b)(6) (Fed. R. Bankr. P.) at the *complete* address listed in Proof of Claim 1-2 (the "Amended Claim") and Court Manual: Bankruptcy Section MS A340, Franchise Tax Board, PO Box 2952, Sacramento, CA 95812-2952. (emphasis added). Accordingly, there is no way for this Court to determine whether the FTB actually received the claim objection.

(ii) Insufficient notice. Debtor has not calendared the claim objection on adequate notice as required by Rule 3007(a)(1) (Fed. R. Bankr. P.), which requires a claim objection to be filed and served "at least 30 days before any scheduled hearing on the objection" Debtor's proof of service (dkt. 37), states that the claim objection was not served until October 24, 2019, which is less than 30 days' notice.

Debtor may wish to consider retaining a capable bankruptcy attorney.

(b) Debtor's objections are not persuasive

(i) Burdens of proof

The Proof of Claim contains the documentation required by Rule 3001(c) (Fed. R. Bankr. P.) and therefore it is prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments

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Los Angeles
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Thursday, November 21, 2019

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8:30 AM

CONT... **Marlon Durelle Watson**

Chapter 13

sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005).

In this case, Debtor does not appear to grasp how the typical claims process works or how estimated taxes are handled. Debtor has not, for example, provided evidence that he does not owe the debt (i.e. that he submitted tax returns for 2015, 2016 or 2017 and does not owe any taxes for those years); or any other persuasive basis to dispute this claim. Nor has debtor asserted that he filed a timely appeal of the disputed FTB assessments.

For these reasons, Debtor has not met his burden to establish a basis to disallow the claim in its entirety.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marlon Durelle Watson	Pro Se
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Movant(s):

Marlon Durelle Watson	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:18-22536 Aurelio Lazalde Jr and Patricia I Lazalde

Chapter 13

#10.00 Hrg re: Objection to Claim #6 by Claimant PYOD, LLC.

Docket 32

Tentative Ruling:

Grant and disallow Claim 6 in full. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Aurelio Lazalde Jr

Represented By
Sundee M Teeple

Joint Debtor(s):

Patricia I Lazalde

Represented By
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:18-23610 Maria Marina Arjona Ibarra

Chapter 13

#11.00 Hrg re: Objection to Claim Number 6 by Claimant
Wells Fargo Bank N.A., d/b/a Wells Fargo Auto

Docket 47

Tentative Ruling:

Grant as set forth below and disallow Claim 6. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons: The tentative ruling is that debtor's proof of service does not reflect service of the court-mandated form F 3007-1.1.NOTICE.OBJ.CLAIM on Wells Fargo Bank, N.A., d/b/a Wells Fargo Auto ("Claimant") as required by Local Bankruptcy Rule ("LBR") 3007-1(b)(3), but that such failure is harmless because debtor's notice of motion and motion (dkt. 47) contains the requisite information set forth in LBR 3007-1(b)(3)(A) & (B), the attached proof of service reflects that Claimant was served with that document and, as of the preparation of this tentative ruling no opposition is on file. Debtor's counsel is cautioned that failure to comply with applicable rules in future may result in denial of the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maria Marina Arjona Ibarra

Represented By

**United States Bankruptcy Court
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8:30 AM

CONT... Maria Marina Arjona Ibarra

Chapter 13

Donna R Dishbak

Movant(s):

Maria Marina Arjona Ibarra

Represented By

Donna R Dishbak

Donna R Dishbak

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-16680 Alexander Karimi

Chapter 13

#11.00 Hrg re: Motion to Disallow Claim No. 4-1

Docket 43

Tentative Ruling:

Continue to 12/19/19 at 8:30 a.m. to address the following issues.
Appearances are not required on 11/21/19.

Current issues

(1) Missing mandatory form

Debtor has not complied with Local Bankruptcy Rule 3007-1(b)(3) which requires the use of the court-mandated form F 3007-1.1.NOTICE.OBJ.CLAIM. No later than 7 days after the date of this hearing, debtor is directed to file and serve notice on the required form.

(2) Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

**United States Bankruptcy Court
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Los Angeles
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Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

CONT...

Alexander Karimi
(2) a withdrawal of the claim objection.

Chapter 13

No fees related to the continuance of this matter, absent specific authorization. Counsel is directed not to charge any fees on the continuance of this matter (e.g., serving notice of the continued hearing, appearing at the continued hearing), because such fees would not have been necessary if counsel had complied with the applicable rules and procedures to begin with.

In addition, because of the lack of cost/benefit analysis, this Court presumes for present purposes that there is no net benefit to the bankruptcy estate. Accordingly, counsel is prohibited from charging any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alexander Karimi

Represented By
Julie J Villalobos

Movant(s):

Alexander Karimi

Represented By
Julie J Villalobos

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

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CONT... Alexander Karimi

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:18-24397 Eddie P Lawrence, SR

Chapter 13

#12.00 [CASE DISMISSED ON 10/29/19]

Hrg re: Debtor's motion to determine the amount of the proof of claim of creditor Wilmington Savings Fund Society, dba Christiana Trust

Docket 74

***** VACATED *** REASON: Case dismissed.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie P Lawrence SR	Pro Se
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Movant(s):

Eddie P Lawrence SR	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:18-24397 Eddie P Lawrence, SR

Chapter 13

#13.00 **[CASE DISMISSED ON 10/29/19]**

Hrg re: Objection to Claim Number 1 by Claimant Cavalry SPVI, LLC.

Docket 76

*** VACATED *** REASON: Case dismissed.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie P Lawrence SR Pro Se

Movant(s):

Eddie P Lawrence SR Pro Se

Trustee(s):

Kathy A Dockery (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-16705 Luz Maria Zaldivar

Chapter 13

#15.00 Hrg re: Objection for Order Disallowing Reducing Claim Number 4
by Claimant Toyota Motor Credit Corporation.

Docket 35

Tentative Ruling:

Deny, and also deny any attorney fees for the claim objection, all for the reasons set forth below. Appearances required but telephonic appearances are encouraged - except for Debtor's counsel who must appear in person - if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed order: Creditor Toyota Motor Credit Corp. ("Toyota") is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Debtor incorrectly asserts that Toyota is double counting arrears

Debtor asserts that in filling out its Proof of Claim ("POC"), Toyota has double counted \$460.74 of late fees by including those fees in two places. Debtor is wrong.

True, that dollar amount is listed in Box 7 under total claim amount, and also in Box 9 under amount necessary to cure any defaults. See dkt. 35, p.4:5-12. But, as Toyota explains in its opposition (dkt. 39), the POC form simply provides information regarding what portion of the total claim consists of arrears as of the petition date. There is no double-counting.

(2) Debtor's challenge to the arrears is unpersuasive

Toyota's POC conforms to the requirements of Rule 3001 (Fed. R. Bankr. P.). Therefore, the POC constitutes prima facie evidence of the validity and amount of Toyota's claim. See Rule 3001(f). The burden of proof is thus on Debtor to introduce evidence sufficient to rebut the presumption of validity.

Toyota's POC provides that Debtor owes arrears of \$460.74,

**United States Bankruptcy Court
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Los Angeles
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8:30 AM

CONT...

Luz Maria Zaldivar

Chapter 13

consisting of late fees for payments that were made late prepetition. POC no. 4, p.2 at box 9. Debtor objects that she was current on her monthly payments as of the time when her bankruptcy petition was filed. See dkt. 35, p.25-26. That is a non-sequitur. If, for example, Debtor did not make one monthly payment on time in 2018, but later made that payment, she would be current as of the petition date but still owe a late fee. Toyota's POC asserts that this is exactly the type of thing that happened, and Debtor's objection does not include any contrary assertion or evidence.

(3) Debtor's assertion that she paid the late fees postpetition is unsupported by any evidence

In her reply, Debtor states that she was billed post-petition for the late fees and paid them prior to contacting counsel. Dkt. 41, p.2:17-20. But there is no evidence to support that assertion (no evidence of payment, and no evidence of any attempt to collect the debt as an *in personam* liability, as opposed to account statements that could help Debtor address the *in rem* liability and keep the vehicle - see *In re Marino*, 577 B.R. 772 (9th Cir. BAP 2017)).

Note: It is true that, at least in this district, the practice is that secured creditors generally file amended proofs of claim when postpetition events alter the dollar amounts that should be disbursed to a creditor *by the Chapter 13 Trustee* (as opposed to payments made directly by Debtor to the creditor). That practice lets the Trustee know what to distribute (even though proofs of claim are supposed to reflect the dollar amount owed "as of the date of the filing of the petition"). 11 U.S.C. 502(b). If a creditor in that situation does not amend its proof of claim, a debtor can object to the proof of claim, so that the Trustee knows how much to distribute to that creditor. If that is the situation, Debtor is free to file an amended objection.

(4) Debtor's request for an order to show cause

In her reply, Debtor requests that this Court issue an order to show cause to review Toyota's claim practices over the last five years. Dkt. 41, p.2:12-14. Debtor's request (a) is improperly presented (a reply on a claim objection is not the proper way to present an independent request for relief) and (b) is premised on Debtor's misunderstandings set forth above - Debtor has not shown that Toyota has done anything wrong. Accordingly this Court will take no action on Debtor's request.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

CONT... Luz Maria Zaldivar

Chapter 13

(5) Debtor's counsel's attorney's fees

The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) require that any claim objection include a cost/benefit analysis. This matter illustrates why.

The total dollar amount at issue is \$460.74. Debtor's counsel bills at \$550.00/hr. (dkt.24, last page). Therefore if Debtor's counsel spends as little as an hour on this matter, he will have already spent more than Debtor or the bankruptcy estate will gain.

Based on what appears to be extremely poor billing judgment, the tentative ruling is to deny all fees on this claim objection (past, present, or future). This Court does not have the resources to monitor all fee applications to be sure that no such fees are charged; but counsel is cautioned that if he attempts to charge for this matter he may face consequences, possibly including sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Luz Maria Zaldivar

Represented By
Michael F Frank

Movant(s):

Luz Maria Zaldivar

Represented By
Michael F Frank

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-12322 Tammy Javonillo-Zimmerman

Chapter 13

#16.00 Cont'd hrg re: Motion for fine and/or disgorgement of fees against bankruptcy petition preparer Vanessa Watson and Bizie Ladie, Inc.
fr. 10/24/19

Docket 37

Tentative Ruling:

Tentative Ruling for 11/21/19:

Appearances required. At the hearing on 10/24/19 this Court was persuaded to continue the matter to this date, based on the representation of counsel for the United States Trustee ("UST") that respondent Vanessa Watson has filed her own individual bankruptcy case (2:19-bk-19881-BR), to allow time for the UST to assess the effect of that bankruptcy filing and take appropriate action. There is no tentative ruling, but the UST should be prepared to provide this Court with an update on the status of its investigations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/24/19:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Order Granting UST's 110 Motion for Fines and Disgorgement (dkt. 22) (the "Prior Order").

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

CONT... Tammy Javonillo-Zimmerman

Chapter 13

Reasons: The tentative ruling is to grant the relief requested for the reasons stated in the motion, except to note that the Prior Order was entered on 6/13/19 (and not 10/25/17 as stated in the motion).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tammy Javonillo-Zimmerman

Represented By
Thomas B Ure

Movant(s):

United States Trustee (LA)

Represented By
Ron Maroko

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

8:30 AM

2:19-23194 Crystal J Winters

Chapter 13

#17.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate .

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Crystal J Winters

Represented By
Stephen S Smyth

Movant(s):

Crystal J Winters

Represented By
Stephen S Smyth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

1:00 PM

2:19-14137 Zeta Graff

Chapter 7

#1.00 Cont'd hrg re: Motion for Turnover of Property Chapter 7 Trustee's Motion for Order (1) Compelling Debtor Zeta Graff and Those in Possession With Her to Turnover Property of the Estate; (2) Authorizing Trustee to Utilize Services of the United States Marshals to Enforce Court Order; and (3) Authorizing Trustee to Operate Property Pending Sale and to Employ a Leasing Agent and Property Manager in Connection Therewith
fr. 11/5/19

Docket 127

Tentative Ruling:

Tentative Ruling for 11/21/19:

Continue to 12/17/19 at 2:00 p.m. to address the issues raised in Ajax Mortgage Loan Trust's limited opposition (dkt. 139) and the Trustee's Statement (dkt. 142). Appearances are not required on 11/21/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

Grant, subject to any opposition and any reply at the hearing. See dkt. 127-132. Appearances required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

1:00 PM

CONT... Zeta Graff

Chapter 7

Party Information

Debtor(s):

Zeta Graff

Pro Se

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#1.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/1/19, 11/12/19

BOBS, LLC
vs
DEBTOR

Docket 936

*** VACATED *** REASON: This matter is scheduled to be heard on
01/14/2020 at 2:00 p.m. per parties' Stipulation (dkt. 993)

Tentative Ruling:

Tentative Ruling for 11/21/19:

Please see the tentative ruling for the status conference (calendar no. 3,
11/21/19 at 2:00 p.m.)

Tentative Ruling for 10/1/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (1) a proposed timeline, and sequence, for discovery and court proceedings regarding the value of the Paramour and whether Bobs, LLC's second loan is secured or unsecured, and (2) whether this Court should set an evidentiary hearing regarding the value of the Paramour, or whether other procedures are appropriate, such as using a third party appraiser, selected jointly by the parties' own appraisers, who would be either appointed as this Court's own expert witness to assist this Court in assessing the parties' appraisals and testimony of their appraisers, or, alternatively, whose determination would be binding. See Motion (dkt.936), Opposition papers (dkt.948, 949, 950, 951, 952), and Reply papers (dkt.958, 959).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

2:00 PM

CONT... Dana Hollister

Chapter 11

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Bobs, LLC

Represented By
David I Brownstein
Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd hrg re: Motion for order
approving disclosure statement
fr. 11/12/19

Docket 962

***** VACATED *** REASON: This matter is scheduled to be heard on
01/14/2020 at 2:00 p.m. per parties' Stipulation (dkt. 993)**

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 3,
11/21/19 at 2:00 p.m.)

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

Movant(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

#3.00 Cont'd Status Conference re: Chapter 11 Case
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,
10/15/19, 11/12/19

Docket 1

*** VACATED *** REASON: This matter is scheduled to be heard on
01/14/2020 at 2:00 p.m. per parties' Stipulation (dkt. 993)

Tentative Ruling:

Tentative Ruling for 11/21/19:

Continue as set forth below, at the request of the parties (see dkt. 990).
Appearances are not required on 11/21/19.

(1) Current issues

(a) Bobs LLC ("Bobs") Motion for Relief From the Automatic Stay ("R/S Motion," dkt. 936), DeeAnna Staats opposition (dkt. 948), Official Committee of Unsecured Creditors opposition (dkt. 949), Debtor and Agent Dean Rallis joint opposition (dkt. 950-952), and Bobs reply (dkt. 958)

Continue concurrent with the continued status conference (see below).

(b) Debtor's disclosure statement (dkt. 964), Anea Enterprises, LLC opposition (dkt. 986), United States opposition (dkt. 987), and Bobs LLC opposition (dkt. 988)

Continue concurrent with the continued status conference (see below).

(2) Deadlines/dates.

This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement*: See above.

(c) Continued status conference: 1/14/20 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, November 21, 2019

Hearing Room 1545

2:00 PM

CONT...

Dana Hollister
conference).

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem
Mark A Kressel
Alan M Insul

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 26, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01219 Ramsaur v. Graff

#1.00 Cont'd status conference re: Complaint to determine dischargeability of debt under 11 U.S.C. sections 523(a)(2)(A) and 523(a)(6) fr. 9/24/19

Docket 1

*** VACATED *** REASON: Cont'd to 12/10/19 at 11:00 a.m. [dkt. 16]

Party Information

Debtor(s):

Zeta Graff	Pro Se
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Defendant(s):

Zeta Graff	Pro Se
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Plaintiff(s):

Brett Ramsaur	Represented By Brett Ramsaur
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Trustee(s):

Sam S Leslie (TR)	Represented By Elissa Miller
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 26, 2019

Hearing Room 1545

1:00 PM

2:15-11029 R&J Limited Partnership and JRJ Limited Partnership

Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/03/15, 03/31/15, 04/28/15, 05/26/15, 06/09/15,
07/07/15, 07/28/15, 09/01/15, 09/22/15, 11/17/15, 12/15/15,
01/19/16, 02/23/16, 03/22/16, 05/31/16, 07/19/16, 09/27/16,
11/29/16, 01/10/17, 04/25/17, 06/20/17, 10/17/17, 01/30/18,
04/10/18, 05/08/18, 06/07/18, 07/10/18, 08/07/18, 9/4/18,
10/9/18, 11/6/18, 01/08/19, 3/26/19, 05/21/19, 8/20/19

Docket 9

***** VACATED *** REASON: Renoticed to 12/10/19 at 1:00 p.m. [dkt. 381]**

Party Information

Debtor(s):

R&J Limited Partnership

Represented By
Vanessa M Haberbush
David R Haberbush

JRJ Limited Partnership

Represented By
Vanessa M Haberbush
David R Haberbush

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 26, 2019

Hearing Room 1545

2:00 PM

2:18-12429 Dana Hollister

Chapter 11

Adv#: 2:18-01203 The Bird Nest, LLC et al v. Hollister

#1.00 Cont'd Status Conference re: Complaint to
Determine Non-Dischargeability of Debt
fr. 8/14/18, 12/18/18, 6/4/19

Docket 1

***** VACATED *** REASON: Cont'd to 12/10/19 at 2:00 p.m. [dkt.15]**

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem

Defendant(s):

Dana Hollister

Pro Se

Plaintiff(s):

The Bird Nest, LLC

Represented By
Howard Steinberg

Roman Catholic Archbishop of Los

Represented By
Howard Steinberg

The California Institute of the Sisters

Represented By
Howard Steinberg

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, December 2, 2019

Hearing Room 1545

10:00 AM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#1.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/17/19, 11/5/19

GOLDMAN SACHS BANK USA
vs
DEBTOR

Docket 25

Tentative Ruling:

Tentative Ruling for 12/2/19:

Please see tentative ruling for status conference (calendar no. 2, 12/2/19 at 10:00 a.m.).

Tentative Ruling for 11/5/19:

Please see tentative ruling for status conference (calendar no. 12, 11/5/19 at 1:00 p.m.).

[Prior Tentative Ruling incorporated into final order, dkt. 39]

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

Movant(s):

Goldman Sachs Bank USA

Represented By
Daniel H Slate
Anthony J Napolitano

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, December 2, 2019

Hearing Room 1545

10:00 AM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/30/19, 10/29/19, 11/5/19

Docket 4

Tentative Ruling:

Tentative Ruling for 12/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). **NOTE:** Due to the specially-set nature of this hearing and scheduling conflicts, Judge Bason will be appearing by telephone.

(1) Current issues

(a) Goldman Sachs' Motion for relief from stay (dkt. 25, 26, 27, 28), Debtor's opposition (dkt. 31), Goldman Sachs' reply (dkt. 32, 33), adequate protection order (dkt. 39), Debtor's supplemental brief (dkt. 47), Goldman Sachs' supplemental reply (dkt. 59, 50, 51), stipulation to continue hearing (dkt. 53), Debtor's supplemental opposition (dkt. 57), Goldman Sachs' supplemental reply (dkt. 67, 68)

The tentative ruling is to modify and condition the automatic stay, under 11 U.S.C. 362(d)(1) and (2), such that the stay will continue in force and effect only through 2/28/20, which will allow debtor a final opportunity to obtain the anticipated construction permits within the time frame it current projects and several additional weeks to secure its anticipated post-petition financing.

This Court acknowledges that Debtor appears to be making incremental progress towards paying off Goldman Sachs and restructuring its finances. But this Court is also mindful that (a) Goldman Sachs' lien has been in default since 12/2018; (b) Debtor has already benefitted from five months of stay protection since the 6/25/19 petition date; (c) based on a review of Goldman Sachs' recent appraisal (dkt. 68), its interest in the property is only protected by a minimal equity cushion; (d) Debtor's progress to date has fallen short of its projections; and (e) although Debtor has been making payments equivalent to the non-default interest, the parties have not

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, December 2, 2019

Hearing Room 1545

10:00 AM

CONT... **South Street Brentwood, LLC**

Chapter 11

briefed whether default interest is allowable, and the risk that it is allowable makes further delays substantially more likely to be detrimental to Goldman Sachs and other creditors.

Proposed order: Goldman Sachs is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (dkt. 21; timely served, dkt. 23)

(b) Procedures order: dkt. 3 (timely served, dkt. 11)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/17/19 at 1:00 p.m. concurrent with other matters. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

Appearances are not required on 11/5/19.

(1) Current issues

(a) Budget Motion (dkt. 30), Goldman Sachs Bank USA's (Goldman Sachs) opposition (dkt. 34), Stipulation re budget motion (dkt. 41, 42) ("Stipulation")

Grant, subject to the terms of the Stipulation.

Proposed orders: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, December 2, 2019

Hearing Room 1545

10:00 AM

CONT... South Street Brentwood, LLC

Chapter 11

(b) Goldman Sachs' Motion for relief from stay (dkt. 25, 26, 27, 28), debtor's opposition (dkt. 31), Goldman Sachs' reply (dkt. 32, 33), adequate protection order (dkt. 39), debtor's supplemental brief (dkt. 47), Goldman Sachs' supplemental reply (dkt. 59, 50, 51)

Continued to 12/2/19 at 10:00 a.m., per stipulation (dkt. 53) and order thereon.

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (dkt. 21; timely served, dkt. 23)

(b) Procedures order: dkt. 3 (timely served, dkt. 11)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/2/19 at 10:00 a.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances are not required on 10/29/19.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (timely served, dkt.23).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/5/19 at 1:00 p.m. No written status report required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, December 2, 2019

Hearing Room 1545

10:00 AM

CONT...

South Street Brentwood, LLC

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, December 2, 2019

Hearing Room 1545

10:00 AM

CONT... South Street Brentwood, LLC

Chapter 11

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 3, 2019

Hearing Room 1545

9:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:19-01028 Affeld Grivakes LLP v. Pachulski

#1.00 Trial re: Complaint for 1) Declaratory Relief; 2) Enforcement of Lien fr. 04/02/19, 06/04/19, 7/30/19, 10/1/10

Docket 1

***** VACATED *** REASON: Settled (subject to this Court's approval).
See adv.dkt.10.**

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Richard M Pachulski

Represented By
James KT Hunter

Plaintiff(s):

Affeld Grivakes LLP

Represented By
Damion Robinson

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, December 4, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

- #1.00** Hrg re: Emergency Motion Pursuant to LBR 9075-1(a) for Order allowing Trustee to Ascertain and Preserve the Status Quo Condition of Aston Business Solutions, Inc. Pending hearing on Motion for Substantive Consolidation of Aston Business Solutions, Inc., with the within case of Attitude Marketing, Inc.

Docket 82

Tentative Ruling:

Revised Tentative Ruling for 12/4/19:

Please see the tentative ruling for the status conference (calendar no. 2, 12/4/19 at 11:00 a.m.)

Tentative Ruling for 12/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the first issue this Court will address is whether to hear the merits of the motion on such an expedited schedule. Then, if appropriate, this Court will address the merits of the motion and any oral or written opposition and reply.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, December 4, 2019

Hearing Room 1545

11:00 AM

CONT... David MacMillan

Chapter 7

Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, December 4, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#2.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 04/09/19, 04/30/19, 5/7/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19, 11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Trustee's emergency motion for an order allowing Trustee to ascertain and preserve the status quo condition of Aston Business Solutions, Inc. (adv. dkt. 82)

There is no tentative ruling, but the first issue this Court will address is whether to hear the merits of the motion on such an expedited schedule. Then, if appropriate, this Court will address the merits of the motion and any oral or written opposition and reply.

(2) Status Conference in Adversary Proceeding (2:17-ap-01545-NB)

Continue this status conference to 12/17/19 at 2:00 p.m., to be concurrent with other matters.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, December 4, 2019

Hearing Room 1545

11:00 AM

CONT... David MacMillan

Chapter 7

[Prior tentative rulings omitted]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Wednesday, December 4, 2019

Hearing Room 1545

11:00 AM

CONT...

David MacMillan

Christian T Kim

Chapter 7

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:17-11283 Ella Mae Pairs

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

BANK OF NEW YORK MELLON TRUST CO
vs
DEBTOR

Docket 40

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Ella Mae Pairs

Chapter 13

Party Information

Debtor(s):

Ella Mae Pairs

Represented By
Philomena N Nzegge

Movant(s):

Bank of New York Mellon Trust

Represented By
Christina J Khil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-12826 Hoa Tieu Lee

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

JPMORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 28

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Hoa Tieu Lee

Chapter 13

Party Information

Debtor(s):

Hoa Tieu Lee

Represented By
Rex Tran

Movant(s):

JPMORGAN CHASE BANK,

Represented By
Josephine E Salmon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-13682 Ignacio Martinez

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Ignacio Martinez

Chapter 13

Party Information

Debtor(s):

Ignacio Martinez

Represented By
Rebecca Tomilowitz

Movant(s):

Lakeview Loan Servicing LLC, and

Represented By
Christina J Khil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-20628 Michael Richard Simmons

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 41

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 43).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michael Richard Simmons

Represented By
D Justin Harelik

Movant(s):

Lakeview Loan Servicing, LLC by

Represented By
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-24867 Kisha Cherri Alvarado

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

FREEDOM MORTGAGE CORPORATION
vs
DEBTOR

Docket 35

*** VACATED *** REASON: Cont'd to 1/7/20 at 10:00 a.m. per
stipulation (dkt.39) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Kisha Cherri Alvarado

Represented By
Andrew Moher

Movant(s):

Freedom Mortgage Corporation

Represented By
Melissa Licker
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-10184 Raul Reynoso, Jr.

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

HSBC Bank USA, N.A.
vs
DEBTOR

Docket 32

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Raul Reynoso, Jr.

Chapter 13

Party Information

Debtor(s):

Raul Reynoso Jr.

Represented By
Stuart R Simone

Movant(s):

HSBC Bank USA, N.A.

Represented By
Eric P Enciso
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-12763 Dollicia Heath

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

BROKER SOLUTIONS, INC.
vs
DEBTOR

Docket 28

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 31).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dollicia Heath

Represented By
Axel H Richter

Movant(s):

Broker Solutions, Inc. dba New

Represented By
Christina J Khil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-22976 Jennifer Mendez

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

ROBERT SOMERS
vs
DEBTOR

Docket 8

*** VACATED *** REASON: Cont'd to 12/17/19 at 10:00 a.m. [Dkt. 16]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Mendez Pro Se

Movant(s):

Robert Somers Pro Se

Trustee(s):

Kathy A Dockery (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-16641 Consuelo Connie Cruz

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 12/10/19 (same as for 11/5/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Consuelo Connie Cruz

Pro Se

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Daniel K Fujimoto
Caren J Castle
Julian T Cotton

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Consuelo Connie Cruz

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-17033 Elin Khachatourian

Chapter 13

#10.00 **[CASE DISMISSED ON 11/26/19]**

Hrg re: Motion for relief from stay [RP]

SPECIALIZED LOAN SERVICING, LLC
vs
DEBTOR

Docket 28

Tentative Ruling:

Grant as provided below. In her limited opposition (dkt. 32), Debtor requests that Movant not be allowed to foreclose on Debtor's residence until January 10, 2020. Debtor also submitted an unsigned declaration (dkt. 35, 37) asking this Court to continue the hearing on the motion for 30 days so that she may complete the sale of her home. The tentative ruling is that this Court cannot grant Debtor her requested relief because the automatic stay has already been terminated due to the dismissal of Debtor's case. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Other relief

This Court is not reaching the merits of the motion, other than as set forth above. In addition, to the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... **Elin Khachatourian**

Chapter 13

relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Elin Khachatourian

Represented By
Stella A Havkin

Movant(s):

Specialized Loan Servicing LLC

Represented By
Mark S Krause

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-17123 Christina Lopez Mitchell

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 28

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Christina Lopez Mitchell

Chapter 13

Party Information

Debtor(s):

Christina Lopez Mitchell

Represented By
Raymond Perez

Movant(s):

Wilmington Savings Fund Society,

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-17830 Myesha Nicole Sherrer

Chapter 13

#12.00 Hrg re: Motion for relief from stay [RP]

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 48

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Myesha Nicole Sherrer

Represented By
Andrew Moher

Movant(s):

Lakeview Loan Servicing, LLC by

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-19017 Edmund Lincoln Anderson

Chapter 13

#13.00 ***[CASE DISMISSED ON 11/26/19]***

Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY
vs
DEBTOR

Docket 44

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so

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CONT... Edmund Lincoln Anderson

Chapter 13

the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Edmond Richard McGuire

Movant(s):

Wilmington Savings Fund Society,

Represented By
Kristin A Zilberstein
Lemuel Bryant Jaquez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-19355 Rodrick Wayne Barnett

Chapter 7

#14.00 ***[CASE DISMISSED ON 11/15/19]***

Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, grant the motion under 11 U.S.C. 362(c)(4) and (j): there is no automatic stay because (a) Debtor's prior cases (#2:19-bk-12690-SK, dismissed 4/23/19 and #2:19-bk-16492-NB, dismissed 7/22/19) were dismissed within one year before this case was filed (on 8/12/19), (b) those dismissals were not under 11 U.S.C. 707(b), and (c) no motion for an order imposing the automatic stay was timely sought.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

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CONT... **Rodrick Wayne Barnett**

Chapter 7

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodrick Wayne Barnett

Pro Se

Movant(s):

The Bank of New York Mellon FKA

Represented By
Stephen T Hicklin

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

2:19-19355 Rodrick Wayne Barnett

Chapter 7

#15.00 ***[CASE DISMISSED ON 11/15/19]***

Hrg re: Motion for relief from stay [RP]

WILMINGTON TRUST, NATIONAL ASSOC
vs
DEBTOR

Docket 36

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, grant the motion under 11 U.S.C. 362(c)(4) and (j): there is no automatic stay because (a) Debtor's prior cases (#2:19-bk-12690-SK, dismissed 4/23/19 and #2:19-bk-16492-NB, dismissed 7/22/19) were dismissed within one year before this case was filed (on 8/12/19), (b) those dismissals were not under 11 U.S.C. 707(b), and (c) no motion for an order imposing the automatic stay was timely sought.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

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CONT... **Rodrick Wayne Barnett**

Chapter 7

Relief notwithstanding *future* bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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CONT... Rodrick Wayne Barnett Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rodrick Wayne Barnett	Pro Se
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Movant(s):

WILMINGTON TRUST,	Represented By Angie M Marth
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Trustee(s):

Jason M Rund (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-20139 Antoinette M Brooks

Chapter 13

#16.00 Hrg re: Motion for relief from stay [RP]

21st MORTGAGE CORPORATION
vs
DEBTOR

Docket 19

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Antoinette M Brooks

Chapter 13

Party Information

Debtor(s):

Antoinette M Brooks

Represented By
Brandon J Anand

Movant(s):

21ST MORTGAGE

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

2:19-20873 Shih Lin Hsu

Chapter 7

#17.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST NATIONAL ASSOC.
vs
DEBTOR

Docket 15

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:18-bk-15426-VZ) was dismissed (on 2/28/19) within one year before this case was filed (on 9/13/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal

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CONT...

Shih Lin Hsu

Chapter 7

analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice because the motion alleges a prior bankruptcy case by the same debtor, as part of the scheme of multiple bankruptcies to hinder, delay, or defraud creditors.

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Shih Lin Hsu

Chapter 7

Party Information

Debtor(s):

Shih Lin Hsu

Represented By
Rajiv Jain

Movant(s):

U.S. Bank Trust National

Represented By
Lemuel Bryant Jaquez

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:19-20944 Maynor Martinez

Chapter 13

#18.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA.
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir.

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10:00 AM

CONT... **Maynor Martinez**

Chapter 13

2006), *overruled on other issues, In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Maynor Martinez

Chapter 13

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maynor Martinez

Pro Se

Movant(s):

Wells Fargo Bank, N.A., as trustee,

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-14235 Annie Padilla Demak and Steven Keith Demak

Chapter 13

#19.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 29

***** VACATED *** REASON: APO**

Tentative Ruling:

Party Information

Debtor(s):

Annie Padilla Demak

Represented By
Jeffrey J Hagen

Joint Debtor(s):

Steven Keith Demak

Represented By
Jeffrey J Hagen

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-14235 Annie Padilla Demak and Steven Keith Demak

Chapter 13

#20.00 Hrg re: Motion for relief from stay [PP]

CAB WEST LLC
vs
DEBTOR

Docket 32

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Annie Padilla Demak and Steven Keith Demak

Chapter 13

Party Information

Debtor(s):

Annie Padilla Demak

Represented By
Jeffrey J Hagen

Joint Debtor(s):

Steven Keith Demak

Represented By
Jeffrey J Hagen

Movant(s):

Cab West LLC

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:17-21766 Christopher James Ervin and Kristen Marissa Ervin

Chapter 13

#21.00 Hrg re: Motion for relief from stay [PP]

ACAR LEASING LTD
vs
DEBTOR

Docket 33

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Christopher James Ervin and Kristen Marissa Ervin

Chapter 13

Party Information

Debtor(s):

Christopher James Ervin

Represented By
Michael E Clark

Joint Debtor(s):

Kristen Marissa Ervin

Represented By
Michael E Clark

Movant(s):

ACAR Leasing LTD dba GM

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:17-24008 Roxyana Marie Vivero

Chapter 13

#22.00 Hrg re: Motion for relief from stay [PP]

KINECTA FEDERAL CREDIT UNION
vs
DEBTOR

Docket 35

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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10:00 AM

CONT... Roxzana Marie Vivero

Chapter 13

Party Information

Debtor(s):

Roxzana Marie Vivero

Represented By
Arsen Pogosov

Movant(s):

Kinecta Federal Credit Union

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-21779 Osvaldo Mena and Mayra Alejandra Mena

Chapter 13

#23.00 Hrg re: Motion for relief from stay [PP]

HYUNDAI LEASE TITLING TRUST
vs
DEBTOR

Docket 24

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Osvaldo Mena and Mayra Alejandra Mena

Chapter 13

Party Information

Debtor(s):

Osvaldo Mena

Represented By
Ramiro Flores Munoz

Joint Debtor(s):

Mayra Alejandra Mena

Represented By
Ramiro Flores Munoz

Movant(s):

Hyundai Lease Titling Trust

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-15974 Christopher Raymond Demery

Chapter 13

#24.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INCv
vs
DEBTOR

Docket 35

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Christopher Raymond Demery

Chapter 13

Party Information

Debtor(s):

Christopher Raymond Demery	Represented By Raj T Wadhvani
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Movant(s):

Santander Consumer USA Inc. dba	Represented By Jennifer H Wang
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-16238 Marvin E Medina and Blanca F. Medina

Chapter 13

#25.00 Hrg re: Motion for relief from stay [PP]

LOS ANGELES FEDERAL CREDIT UNION
vs
DEBTOR

Docket 52

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Marvin E Medina and Blanca F. Medina

Chapter 13

Party Information

Debtor(s):

Marvin E Medina

Represented By
Giovanni Orantes

Joint Debtor(s):

Blanca F. Medina

Represented By
Giovanni Orantes

Movant(s):

Los Angeles Federal Credit Union

Represented By
Bruce P. Needleman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-19999 Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

#26.00 Hrg re: Motion for relief from stay [PP]

BANK OF AMERICA, NA.
vs
DEBTOR

Docket 43

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

Party Information

Debtor(s):

Kim Gordon McNulty

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

Joint Debtor(s):

Melissa Amanda McNulty

Represented By
Matthew D. Resnik
Roksana D. Moradi-Brovia

Movant(s):

Bank of America, N.A.

Represented By
Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-19999 Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

#27.00 Hrg re: Motion for relief from stay [PP]

GATEWAY ONE LENDING & FINANCE
vs
DEBTOR

Docket 47

Tentative Ruling:

Grant, with a caution to movant (see below). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Caution regarding service

The proof of service does not show service on the entire list of creditors included in Debtor's "list filed under Rule 1007(d)" (as required by Rule 4001(a)(1), Fed. R. Bankr. P.). See dkt. 1. For example, Wells Fargo is missing.

In the circumstances presented, the tentative ruling is to treat this as a harmless error because there is no equity in the vehicle and, based on this Court's experience, there is a vanishingly small chance that any omitted creditor would have any desire or ability to oppose the requested relief when Debtors have not. In future, however, this Court may require strict compliance with the applicable rules.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kim Gordon McNulty

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Joint Debtor(s):

Melissa Amanda McNulty

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Movant(s):

Gateway One Lending & Finance

Represented By

Karel G Rocha

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-19999 Kim Gordon McNulty and Melissa Amanda McNulty

Chapter 11

#28.00 Hrg re: Motion for relief from stay [PP]

KINECTA FEDERAL CREDIT UNION
vs
DEBTOR

Docket 41

Tentative Ruling:

Grant, with a caution to movant (see below). Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Caution regarding service

The proof of service does not show service on the entire list of creditors included in Debtor's "list filed under Rule 1007(d)" (as required by Rule 4001(a)(1), Fed. R. Bankr. P.). See dkt. 1. For example, Gateway One Lending is missing.

In the circumstances presented, the tentative ruling is to treat this as a harmless error because there is no equity in the vehicle and, based on this Court's experience, there is a vanishingly small chance that any omitted creditor would have any desire or ability to oppose the requested relief when Debtors have not. In future, however, this Court may require strict compliance with the applicable rules.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

**United States Bankruptcy Court
Central District of California
Los Angeles
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10:00 AM

CONT... **Kim Gordon McNulty and Melissa Amanda McNulty**

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Kim Gordon McNulty

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Joint Debtor(s):

Melissa Amanda McNulty

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Movant(s):

Kinecta Federal Credit Union

Represented By

Mark S Blackman

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:17-13010 Joe Alan Myers and Wendi Lin Myers

Chapter 13

#29.00 Hrg re: Motion for relief from stay [NA]

FORD MOTOR CREDIT COMPANY, LLC
vs
DEBTOR

Docket 81

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1), subject to the following limitations:

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the

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Central District of California
Los Angeles
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Tuesday, December 10, 2019

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10:00 AM

CONT... **Joe Alan Myers and Wendi Lin Myers** **Chapter 13**

motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joe Alan Myers

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Wendi Lin Myers

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

Ford Motor Credit Company LLC

Represented By
Jennifer H Wang

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Joe Alan Myers and Wendi Lin Myers

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-14137 Zeta Graff

Chapter 7

#30.00 Hrg re: Motion for relief from stay [NA]

OLIVIA VAATETE
vs
DEBTOR

Docket 123

Tentative Ruling:

Grant in part as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Zeta Graff

Chapter 7

scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

In limiting the nonbankruptcy litigation as set forth above, this Bankruptcy Court emphasizes that it does not seek in any way to impinge on the authority of the Nonbankruptcy Courts presiding over the nonbankruptcy action. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage this bankruptcy case. Those obligations include taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and preserving the bankruptcy estate by placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions

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Tuesday, December 10, 2019

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10:00 AM

CONT...

Zeta Graff

Chapter 7

only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly, plaintiff's complaints were filed prepetition, and they allege only state law causes of action based on actions allegedly taken by Debtor prepetition, so mandatory abstention applies per 28 U.S.C. Section 1334(c)(2).

Relief notwithstanding *future* bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases under *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because there is insufficient evidence on the record to convince this Court that Debtor is involved in a scheme to delay, hinder, or defraud the Movant that is equivalent to a scheme involving multiple bankruptcy cases or other acts analogous to 11 U.S.C. 362(d)(4), as is required under the authorities cited above. True, the Chapter 7 Trustee has alleged that Debtor engaged in a fraudulent transfer involving an actual intent to hinder, delay, or defraud creditors; but those allegations have not been proven at trial. It is also true that the Chapter 7 Trustee has alleged that this bankruptcy case was filed as a result of Movant's nonbankruptcy actions - implicitly to hinder or delay those actions - but, first, those allegations have not been proven and, second, some

**United States Bankruptcy Court
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10:00 AM

CONT...

Zeta Graff

Chapter 7

degree of delay is a legitimate and inherent part of any good faith bankruptcy because of the "breathing spell" that Congress intended to give debtors, to aid in restructuring their finances. For all of these reasons, the tentative ruling is not to grant the requested "*in rem*" relief.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff

Pro Se

Movant(s):

Olivia Vaatete

Represented By
Brennan J. Mitch

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#31.00 Hrg re: Motion for relief from stay [NA]

JOHN MARTINEZ
vs
DEBTOR

Docket 104

Tentative Ruling:

This matter has been resolved by the parties' stipulation (dkt. 106).
Appearances are not required on 12/10/19.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 day after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

Movant(s):

John Martinez

Represented By
Vicki I Sarmiento

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-22153 Finis Lawrence Adams

Chapter 13

#32.00 Hrg re: Motion in Individual Case for Order Confirming Termination of Stay under 11 U.S.C. 362(j) or That No Stay is in Effect under 11 U.S.C. 362(c)(4)(A)(ii)

Docket 19

Tentative Ruling:

Grant as provided below, notwithstanding Debtor's (untimely) response (dkt.24), for the reasons set forth below and in Movant's reply (dkt.25).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Debtor opposes the motion but the tentative ruling is that this Bankruptcy Court has no authority to impose the automatic stay after it has expired.

(2) In any event, the automatic stay never went into effect

Debtor's instant bankruptcy case was filed on 10/15/19. Debtor actually had not one but two bankruptcy cases that were dismissed within the year before this latest bankruptcy case was filed: Case No. 2:18-bk-21271-VZ, dismissed 10/15/18, and Case No. 2:19-bk-11151-NB, dismissed 4/22/19.

Section 362(c)(4) provides in relevant part

(A)(i) ... if 2 or more single or join cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case ... [11 U.S.C. 362(c)(4)(A)(i) (emphasis added)]

Rule 9006(a)(1)(A) (Fed. R. Bankr. P.) provides that when computing time periods where the period stated is in days or a longer unit of time, the day of the event that triggers the period is to be excluded. Here, the Section

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10:00 AM

CONT... Finis Lawrence Adams

Chapter 13

362(c)(4) time period is stated in years. Pursuant to Rule 9006(a)(1)(A), the petition date, 10/15/19, is to be excluded. Therefore, the instant bankruptcy petition was filed 364 days after Debtor's first prior bankruptcy case was dismissed. Therefore, after considering Debtor's next bankruptcy case that was dismissed on 4/22/19, Debtor had two dismissed bankruptcy cases that were pending within one year previous to the petition date.

Because Debtor did not seek or obtain any order imposing the automatic stay, Debtor's instant bankruptcy case falls within Section 362(c)(4). This is an alternative reason why there is no automatic stay in effect. Again, the tentative ruling is that this Bankruptcy Court has no authority to impose the automatic stay when the stay has ceased to exist.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finis Lawrence Adams

Represented By
Leroy Bishop Austin

Movant(s):

Dan Z Bochner

Represented By
Julian K Bach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-16965 Nelson Enrique Gomez

Chapter 13

#33.00 Hrg re: Motion for relief from stay [UD]

ANTONIO DUARTE
vs
DEBTOR

Docket 74

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 78).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Nelson Enrique Gomez

Represented By
Maria C Hehr

Movant(s):

Antonio Duarte

Represented By
Barry L O'Connor

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-22474 Javier Benavides

Chapter 13

#34.00 Hrg re: Motion for relief from stay [UD]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In addition, the motion is granted under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:19-bk-19862-NB) was dismissed (on 9/17/19) within one year before this case was filed (on 10/22/19), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Hernandez & Jiminez*, Case No. 2:11-bk-53730-NB, Dkt 40.

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). To the extent, if any, that the motion seeks to terminate the automatic

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10:00 AM

CONT... **Javier Benavides**

Chapter 13

stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

**United States Bankruptcy Court
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CONT... Javier Benavides

Chapter 13

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Javier Benavides

Pro Se

Movant(s):

The Bank of New York Mellon, fka,

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-22673 Yeon Seo Hwang

Chapter 13

#35.00 Hrg re: Motion for relief from stay [UD]

HIMORK PARK
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue,

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Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT...

Yeon Seo Hwang

Chapter 13

then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Yeon Seo Hwang

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Yeon Seo Hwang

Chapter 13

Movant(s):

Himork Park

Represented By
David S Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-22981 Akalah Butler

Chapter 13

#36.00 Hrg re: Motion for relief from stay [UD]

SEQUOIA EQUITIES - GLENDALE
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Akalah Butler

Chapter 13

Party Information

Debtor(s):

Akalah Butler

Pro Se

Movant(s):

Sequoia Equities - Glendale, A

Represented By
Agop G Arakelian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-23015 Cesar Hernandez

Chapter 13

#37.00 Hrg re: Motion for relief from stay [UD]

ERWIN ST APARTMENTS CALIFORNIA, LLC
vs
DEBTOR

Docket 4

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within

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Los Angeles
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10:00 AM

CONT...

Cesar Hernandez

Chapter 13

two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cesar Hernandez

Pro Se

Movant(s):

ERWIN ST APARTMENTS

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Cesar Hernandez

Julian K Bach

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-22481 Raul Gil Orozco

Chapter 13

#38.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

Deny. Appearances required to address whether the case should be dismissed (see Judge Bason's Procedures, posted at www.cacb.uscourts.gov, then search for "362(c)(3)").

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Reasons: The motion was not timely set for hearing in accordance with 11 U.S.C. 362(c)(3)(B) (providing that "on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30 day period [after the petition date, *i.e.*, 10/22/19 + 30 days]." (emphasis added)).

No attorney fees: This Court presumes that counsel for the debtor will not charge any fees for the time spent on this motion (because counsel knew or should have known of the earlier case and knew or should have known of the 30 day deadline). If counsel intends to charge any fees then the procedures must be followed to dispute this tentative ruling.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Raul Gil Orozco

Chapter 13

Party Information

Debtor(s):

Raul Gil Orozco

Represented By
Daniel King

Movant(s):

Raul Gil Orozco

Represented By
Daniel King

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-23303 Candelario Lora

Chapter 11

#39.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 17

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
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10:00 AM

CONT... Candelario Lora

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Candelario Lora

Represented By
Onyinye N Anyama

Movant(s):

Candelario Lora

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-23517 Blanca Estela Rubalcava

Chapter 13

#40.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

Grant, subject (1) any opposition at the hearing, (2) denial of attorney fees for appearing at the hearing as set forth below, and (3) the additional conditions set forth below. Appearances required.

No attorney fees: This Court presumes that counsel for Debtor will not charge any fees for appearing at this hearing, unless there is an opposition to the motion, because (a) the posted Procedures of Judge Bason permit these types of motions to be set on 14 days' notice with opposition papers due five calendar days before the hearing, but (b) counsel elected to serve a notice permitting opposition at the hearing. If counsel intends to charge any fees then the procedures must be followed to dispute this tentative ruling.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

10:00 AM

CONT...

Blanca Estela Rubalcava

Chapter 13

selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Blanca Estela Rubalcava

Represented By
Lionel E Giron

Movant(s):

Blanca Estela Rubalcava

Represented By
Lionel E Giron
Lionel E Giron
Lionel E Giron
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:17-22059 Courtney Anne Rogers

Chapter 13

#41.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/29/19

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 39

Tentative Ruling:

Tentative Ruling for 12/10/19 (same as for 10/29/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 41).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Courtney Anne Rogers

Represented By
Barry E Borowitz

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Courtney Anne Rogers

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-17007 Martha Milagros Noy-Taylor

Chapter 13

#42.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/5/19

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 45

***** VACATED *** REASON: Cont. to 1/14/20 at 10:00 a.m. per stip (dkt. 52) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Martha Milagros Noy-Taylor

Represented By
Hale Andrew Antico

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-18709 Acquiplied Assets, B.T.

Chapter 7

#43.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/12/19

YORAM LEVY
vs
DEBTOR

Docket 127

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address why they have not lodged a proposed order on their stipulation (dkt. 130) resolving this motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/12/19:

Continue to 12/10/19 at 10:00 a.m., for the parties to lodge a proposed order on their stipulation (dkt. 130). Appearances are not required on 11/12/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Acquiplied Assets, B.T.

Chapter 7

Debtor(s):

Acquiplied Assets, B.T.

Represented By
Robert A Brown

Movant(s):

Ellen Gursky

Represented By
Douglas A Plazak

Martin Schuster

Represented By
Douglas A Plazak

Daniel Grosz

Represented By
Douglas A Plazak

Joseph Yavin

Represented By
Douglas A Plazak

Yoram Levy

Represented By
Douglas A Plazak

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Asa S Hami

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-19352 Deborah Anne Fostrey

Chapter 13

#44.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/17/19, 11/5/19

US BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 12/10/19 (same as for 11/5/19, 9/17/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 36).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Deborah Anne Fostrey

Represented By
Thomas B Ure

Movant(s):

US Bank National Association, as

Represented By
Erica T Loftis Pacheco

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... Deborah Anne Fostrey

Chapter 13

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-21831 Cassandra E. Rosser

Chapter 13

#45.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/12/19

NATIONSTAR MORTGAGE, LLC
VS
DEBTOR

Docket 39

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Cassandra E. Rosser

Represented By
Heather J Canning
Barry E Borowitz

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:18-23524 Jason Azizieh and Alma Azizieh

Chapter 13

#46.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19, 9/10/19, 10/1/19, 11/12/19

WELLS FARGO BANK
VS
DEBTOR

Docket 32

*** VACATED *** REASON: APO

Tentative Ruling:

Party Information

Debtor(s):

Jason Azizieh

Represented By
Erika Luna

Joint Debtor(s):

Alma Azizieh

Represented By
Erika Luna

Movant(s):

WELLS FARGO BANK N.A., AS

Represented By
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-10241 Maria F Gayman

Chapter 13

#47.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/20/19, 10/15/19

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 12/10/19:

Deny as moot because (1) this case has been dismissed, which terminates the automatic stay (see 11 U.S.C. 349(b)(3) & 362(c)), and (2) Debtor has presented evidence that Movant no longer services this loan (dkt. 39, Ex.E) so Movant appears to lack standing to seek relief from the automatic stay. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

At the hearing on 8/20/19 this Court was persuaded to continue this matter for a possible adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order. Appearances required.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... **Maria F Gayman**

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the Debtor's late filed opposition (dkt. 39).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maria F Gayman

Represented By
Michael E Clark

Movant(s):

Wells Fargo Bank, N.A. successor

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-12322 Tammy Javonillo-Zimmerman

Chapter 13

#48.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/30/19, 9/24/19, 10/15/19

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 26

***** VACATED *** REASON: Voluntary Dismissal of Motion Filed on
11/20/19 (Dkt. 63)**

Tentative Ruling:

Party Information

Debtor(s):

Tammy Javonillo-Zimmerman

Represented By
Thomas B Ure

Movant(s):

Nationstar Mortgage LLC d/b/a Mr.

Represented By
Nancy L Lee
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

2:19-12611 Margarita Dolores Gonzalez

Chapter 13

#49.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/06/19, 9/10/19, 10/29/19

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 29

Tentative Ruling:

Tentative Ruling for 12/10/19 (same as for 10/29/19):

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address whether Debtor is performing under the LMM trial period (see Order, dkt.42).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Continue to 10/29/19 at 10:00 a.m. in view of Debtor's entry into the LMM program (see Order, dkt.42) and Debtor's status report (dkt.41). If Debtor is performing under the LMM trial period, and files a declaration saying so prior to the continued hearing, then this Court anticipates a further continuance of this hearing. Appearances are not required on 9/10/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

10:00 AM

CONT... **Margarita Dolores Gonzalez**

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for for 8/6/19:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Margarita Dolores Gonzalez

Represented By
Michael E Clark
Barry E Borowitz

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Angie M Marth

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:14-30696 Chem-Mex Industries, Inc.

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Carolyn A. Dye, Ch. 7 Trustee]

Docket 40

Tentative Ruling:

Approve the Trustee's final report and all the Trustee \$4,885.58 in fees and \$221.24 in expenses, for a total payment of \$5,106.82. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Chem-Mex Industries, Inc.

Represented By
Baruch C Cohen

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:14-30696 Chem-Mex Industries, Inc.

Chapter 7

#2.00 Hrg re: Application for Compensation
of Final Fees and/or Expenses
[Filed by LEA Accountancy, LLP Accountant]

Docket 34

Tentative Ruling:

Allow LEA Accountancy, LLP \$6,651.50 in fees and \$556.79 in expenses, for a total award of \$7,208.39. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Chem-Mex Industries, Inc.

Represented By
Baruch C Cohen

Movant(s):

LEA Accountancy, LLP

Pro Se

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

#3.00 Hrg re: Wyndham Vacation Resorts, Inc.'s motion to compel Florance Communciations, Inc. to produce documents and related relief

Docket 425

***** VACATED *** REASON: Cont'd to 12/17/19 at 2:00 p.m. [Dkt. 435]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:16-21559 David MacMillan

Chapter 7

#4.00 Order to show cause why an order should not be issued holding Florance in contempt of court

Docket 428

***** VACATED *** REASON: Cont'd to 12/17/19 at 2:00 p.m. [Dkt. 435]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:19-18582 Tony Quesada Ramirez

Chapter 13

Adv#: 2:19-01429 Duran v. Ramirez et al

#5.00 Status conference re: Complaint to determine non dischargeability of debt 1) Fraud; 2) Fraudulent conversion of personal property; 3) Negligent misrepresentation

Docket 1

Tentative Ruling:

Appearances are not required on 12/10/19. This Court has reviewed relevant documents and records filed in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Current Issues.

The tentative ruling is to continue this matter to the date set forth below and set a 12/31/20 deadline for plaintiff to file motion(s) for default judgment.

(2) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. *See generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR*

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

CONT... Tony Quesada Ramirez

Chapter 13

Liquidation, Inc., 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Intentionally omitted.

(3) Deadlines: This adversary proceeding has been pending since 9/27/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 2/4/20.

Continued status conference: 2/18/20 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Tony Quesada Ramirez

Represented By
David Lozano

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

CONT... Tony Quesada Ramirez

Chapter 13

Defendant(s):

Tony Quesada Ramirez Pro Se

Evelyn Ramirez Pro Se

Joint Debtor(s):

Evelyn Ramirez Represented By
David Lozano

Plaintiff(s):

Ulises Duran Pro Se

Trustee(s):

Kathy A Dockery (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01219 Ramsaur v. Graff

#6.00 Hrg re: Motion for Default Judgment under LBR 7055-1
filed by Brett Ramsaur dba Ramsaur Law Office

Docket 18

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 7,
12/10/19 at 11:00 a.m.)

Party Information

Debtor(s):

Zeta Graff	Pro Se
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Defendant(s):

Zeta Graff	Pro Se
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Plaintiff(s):

Brett Ramsaur	Represented By Brett Ramsaur
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Trustee(s):

Sam S Leslie (TR)	Represented By Elissa Miller
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01219 Ramsaur v. Graff

#7.00 Cont'd status conference re: Complaint to determine dischargeability of debt under 11 U.S.C. sections 523(a)(2)(A) and 523(a)(6) fr. 9/24/19, 11/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue to 1/7/20 at 11:00 a.m. to address the following issues.
Appearances are not required on 12/10/19.

Reasons:

Plaintiff seeks \$19,099.40 consisting of "\$12,646.75 in principal, \$1,466.40 in interest, and \$4,986.25 in attorneys' fees and costs."
Adv.dkt.17, p.11:6-7.

(1) Interest

The retainer letter, attached to the Complaint (adv.dkt.1, Ex. 1 at PDF p.9), does not mention any interest rate, so there is a question what rate to apply (see below). In addition, there are no calculations showing what interest rate has been applied and how it has been calculated.

The tentative ruling is that this Court has limited discretion to determine whether the pre-judgment interest rate should be governed California or federal law, but that the state of the law on this issue is somewhat unclear. *See In re Zenovic*, 2017 WL 431400, *8 (9th Cir. BAP 2017) (in nondischargeability case when State law issues predominated, there was no State court judgment, and there was danger of forum shopping, bankruptcy court had discretion to award prejudgment interest at Federal or State law rate, and did not abuse discretion by choosing State rate); *but see In re Hamilton*, 584 B.R. 310, 324 (9th Cir. BAP 2018) (citing *In re Zenovic* for proposition that when there is no prior State court judgment, federal law governs pre-and postjudgment interest).

(2) Attorney fees

The retainer letter, attached to the Complaint (adv.dkt.1, Ex. 1 at PDF

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

CONT... **Zeta Graff**

Chapter 7

p.9), includes an attorney fee clause. But Plaintiff's motion does not include daily time records evidencing that Plaintiff is entitled to the fees and costs he seeks (as distinguished from his claim for damages, which is supported by daily time records).

(3) Additional briefing

The deadline for Plaintiff to file additional papers addressing the above issues is 12/31/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

The tentative ruling is to continue this Status Conference as set forth below, at which time this Court can assess what progress has been made on any motion for a default judgment, based on this Court's reviewed of Plaintiff's unilateral status report (adv. dkt. 12) and the other filed documents and records in this adversary proceeding. Plaintiff is directed in future to use the mandatory form of status report (available at www.cacb.uscourts.gov) - among other things, it has a question regarding consent to this Court's entry of final orders. Appearances are not required on 9/24/19.

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order entitled "Order On Initial Status Conference" via LOU within 7 days after the status conference, attaching a copy of this tentative ruling.

Preliminary Issues: continuance

Note: This Court will hold a Status Conference concurrent with any other hearing in this adversary proceeding (including any self-calendared hearings).

Standard issues

The following are Judge Bason's standard requirements for status

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

CONT...

Zeta Graff

Chapter 7

conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. [Intentionally omitted.]

(3) Deadlines: This adversary proceeding has been pending since 7/12/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 11/12/19.

Continued status conference: 11/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

CONT... **Zeta Graff** Chapter 7

chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff	Pro Se
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Defendant(s):

Zeta Graff	Pro Se
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Plaintiff(s):

Brett Ramsaur	Represented By Brett Ramsaur
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Trustee(s):

Sam S Leslie (TR)	Represented By Elissa Miller
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01436 Sam S. Leslie, Chapter 7 Trustee v. Red Sea Consultancy FZE

#8.00 Status conference re: Complaint (1) Avoidance and Recovery of Preferential Transfer, (2) Avoidance and Recovery of Fraudulent Transfer, (3) Preservation of Preferential and Fraudulent Transfers

Docket 1

***** VACATED *** REASON: Another summons issued; Reset to 1/7/20 at 11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zeta Graff	Pro Se
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Defendant(s):

Red Sea Consultancy FZE	Pro Se
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Plaintiff(s):

Sam S. Leslie, Chapter 7 Trustee	Represented By Elissa Miller
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Trustee(s):

Sam S Leslie (TR)	Represented By Elissa Miller
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:19-11831 Charles S Dickens

Chapter 7

Adv#: 2:19-01157 Twisted Oliver Holdings, LLC v. Dickens

#9.00 Cont'd status conference re: Complaint to deny discharge (11 U.S.C. section 727) fr. 7/30/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Preliminary matters:

The parties should be prepared to address whether the below trial related deadlines need to be adjusted.

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket number(s) 8, AND/OR at the hearing(s) on 7/30/19).

(2) Deadlines: This adversary proceeding has been pending since 5/28/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 4/6/20.

Expert(s) - deadline for reports: 4/20/20.

Expert(s) - discovery cutoff (if different from above): 5/4/20

Dispositive motions to be heard no later than: 6/16/20.

Joint Status Report: 5/5/20.

Continued status conference: 5/19/20 at 11:00 a.m., provided that this Court will also hold a status conference at the same time as any other scheduled matters (e.g., any hearing on the forthcoming motion for sanctions for alleged breach of mediation confidentiality).

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11:00 AM

CONT...

Charles S Dickens

Chapter 7

Lodge Joint Proposed Pre-Trial Order: 6/2/20.

Pretrial conference: 6/16/20 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 6/17/20 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: 6/22/20 at 9:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Preliminary matters:

(1) Status Report

The parties have failed to file any joint status report. Why not?

(2) Status of mediation

This Court has reviewed the filed documents and records in this adversary proceeding. This Court notes that the matter was assigned to mediation on 8/19/19 (adv. dkt. 13). The parties should be prepared to discuss the status of any mediation efforts.

(2) Dates/deadlines:

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket number(s) 8, AND/OR at the hearing(s) on 7/30/19).

This adversary proceeding has been pending since 5/28/19. The tentative ruling is not to set any trial-related deadlines, except:

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CONT...

Charles S Dickens

Chapter 7

Joint Status Report: 12/3/19.

Continued status conference: 12/17/19 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the parties' joint status report (adv. dkt. 8) and the other filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to

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11:00 AM

CONT... Charles S Dickens

Chapter 7

liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 8/13/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/28/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 9/10/19

Continued status conference: 9/24/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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11:00 AM

CONT... Charles S Dickens

Chapter 7

by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Charles S Dickens

Represented By
Eric Bensamochan

Defendant(s):

Charles S Dickens

Represented By
Eric Bensamochan

Plaintiff(s):

Twisted Oliver Holdings, LLC

Represented By
Holly Walker

Trustee(s):

Wesley H Avery (TR)

Represented By
Kathy Bazoian Phelps

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19, 9/10/19, 10/1/19, 10/15/19,
11/12/19

Docket 323

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances are not required on 12/10/19.

(1) Current matters

(a) Affeld Grivakes Adv.

Continue this matter to the date set forth below for the parties to finalize and obtain approval (if required) of their settlement. See Joint Statement of Parties re Settlement and Rule 9019(a) Motion (Adv No. 2:19-ap-01028-NB, dkt. 10).

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences Continue all three of today's status conferences (in L&B, Lay-Invol, and Affeld Grivakes Adv.) to 2/18/20 at 11:00 a.m., to be heard concurrently with other matters. No status reports required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you

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CONT... Layfield & Barrett, APC

Chapter 11

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

(1) Current matters

(a) Affeld Grivakes Adv.

This Court has reviewed the Joint Statement of Parties re Settlement and Rule 9019(a) Motion (adv. dkt. 10) in which the parties state that they have reached a settlement and request time to obtain court approval pursuant to Rule 9019 (Fed. R. Bankr. P.). The 12/3/19 at 9:00 a.m. trial is vacated. Plaintiff is directed to lodge a proposed order vacating the trial and related deadlines via LOU within 7 days.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences Continue all three of today's status conferences to 12/10/19 at 11:00 a.m., to be heard concurrently with other matters. No status reports required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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CONT... Layfield & Barrett, APC

Chapter 11

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Layfield & Barrett, APC	Pro Se
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Movant(s):

Layfield & Barrett, APC	Pro Se
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Trustee(s):

Richard Pachulski (TR)	Represented By Malhar S Pagay James KT Hunter
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**United States Bankruptcy Court
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:19-01028 Affeld Grivakes LLP v. Pachulski

#11.00 Pretrial Conference re: Complaint for 1) Declaratory Relief; 2) Enforcement of Lien
fr. 04/02/19, 06/04/19, 7/30/19, 10/1/19, 11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 9 (12/10/19 at 11:00 a.m.).

Tentative Ruling for 11/12/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 6 (11/12/19 at 2:00 p.m.).

Tentative Ruling for 10/1/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 4 (10/1/19 at 2:00 p.m.).

Tentative Ruling for 7/30/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 14 (7/30/19 at 11:00 a.m.).

Tentative Ruling for 6/4/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 12 (6/4/19 at 11:00 a.m.).

Tentative Ruling for 4/2/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 4) and the other filed documents and records in this adversary proceeding.

The following are Judge Bason's standard requirements for status

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CONT... Layfield & Barrett, APC

Chapter 11

conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 4/16/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 1/29/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 7/9/19, subject to

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CONT... Layfield & Barrett, APC

Chapter 11

adjustment at next status conference depending on Alvarez issues (see Status Report, adv. dkt. 4, section G).

Expert(s) - deadline for reports: 7/23/19 (subject to same adjustment)

Expert(s) - discovery cutoff (if different from above): 8/6/19 (subject to same adjustment)

Dispositive motions to be heard no later than: TBD

Joint Status Report: 5/21/19.

Continued status conference: 6/4/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Richard M Pachulski

Represented By
James KT Hunter

Plaintiff(s):

Affeld Grivakes LLP

Represented By
Damion Robinson

**United States Bankruptcy Court
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11:00 AM

CONT... Layfield & Barrett, APC

Chapter 11

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:18-01233 Pachulski v. Young et al

#12.00 Hrg re: Motion for Summary Judgment by
Defendant Neifert Khorshid

Docket 33

***** VACATED *** REASON: Cont. to 2/18/20 at 11am per stipulation
(adv. dkt. 36) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Jeffery Young

Represented By
Gary R Wallace

Conal Doyle

Represented By
M. Jonathan Hayes

Wilshire Law Firm, PLC

Represented By
M. Jonathan Hayes

Babak Bobby Saadian

Represented By
M. Jonathan Hayes

Neifert Khorshid

Represented By
M. Jonathan Hayes

Movant(s):

Neifert Khorshid

Represented By
M. Jonathan Hayes

Plaintiff(s):

Richard M Pachulski

Represented By

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

CONT... Layfield & Barrett, APC

Chapter 11

James KT Hunter

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
Central District of California
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:18-01233 Pachulski v. Young et al

#13.00 Hrg re: Motion for Summary Judgment by Defendants
Conal Doyle, Wilshire Law Firm, PLC and Babak Bobby Saadian

Docket 30

***** VACATED *** REASON: Cont. to 2/18/20 at 11:00 a.m. per stipulation
(adv. dkt. 36) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Jeffery Young

Represented By
Gary R Wallace

Conal Doyle

Represented By
M. Jonathan Hayes

Wilshire Law Firm, PLC

Represented By
M. Jonathan Hayes

Babak Bobby Saadian

Represented By
M. Jonathan Hayes

Neifert Khorshid

Represented By
M. Jonathan Hayes

Plaintiff(s):

Richard M Pachulski

Represented By
James KT Hunter

Trustee(s):

Richard Pachulski (TR)

Represented By

**United States Bankruptcy Court
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11:00 AM

CONT... Layfield & Barrett, APC

Chapter 11

Malhar S Pagay
James KT Hunter

**United States Bankruptcy Court
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 11

Adv#: 2:18-01233 Pachulski v. Young et al

#14.00 Cont'd Status Conference re: Complaint for Avoidance
and Recovery of Preferential Transfers
fr. 11/27/18, 4/30/19, 06/04/19, 9/10/19

Docket 10

*** VACATED *** REASON: Cont. to 2/18/20 at 11:00 a.m. per stipulation
(adv. dkt. 36) and order thereon

Tentative Ruling:

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Defendant(s):

Jeffery Young

Represented By
Gary R Wallace

Conal Doyle

Represented By
M. Jonathan Hayes

Wilshire Law Firm, PLC

Represented By
M. Jonathan Hayes

Babak Bobby Saadian

Represented By
M. Jonathan Hayes

Neifert Khorshid

Represented By
M. Jonathan Hayes

Plaintiff(s):

Richard M Pachulski

Represented By
James KT Hunter

Trustee(s):

Richard Pachulski (TR)

Represented By

**United States Bankruptcy Court
Central District of California
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11:00 AM

CONT... Layfield & Barrett, APC

Malhar S Pagay
James KT Hunter

Chapter 11

**United States Bankruptcy Court
Central District of California
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:18-15829 Philip James Layfield

Chapter 7

#15.00 Cont'd Status Conference re: Chapter 7 Involuntary
fr. 07/17/18, 08/14/18, 09/04/18, 09/18/18, 10/26/18,
12/6/18, 12/18/18, 02/05/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19, 7/30/19, 10/1/19, 10/15/19, 11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 9 (12/10/19 at 11:00 a.m.).

Tentative Ruling for 11/12/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 6 (11/12/19 at 2:00 p.m.).

Tentative Ruling for 10/15/19:

Please see tentative ruling for status conference in the *Layfield & Barrett* case, calendar no. 6.2 (10/15/19 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Philip James Layfield

Represented By
Anthony M Solis

Trustee(s):

Wesley H Avery (TR)

Represented By
Jeffrey I Golden
Faye C Rasch
Beth Gaschen
Ryan W Beall

**United States Bankruptcy Court
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#16.00 Cont'd status conference re: Removal
fr. 7/2/19; 08/06/19, 9/24/19

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #13 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Montserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Represented By
Michael J Khouri

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

**United States Bankruptcy Court
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11:00 AM

CONT... Schaefer Ambulance Service, Inc

Chapter 11

Plaintiff(s):

Cathay Bank, a California banking

Represented By

Michael G Fletcher

Reed S Waddell

Gerrick Warrington

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:18-24302 GL Master Inc

Chapter 7

#17.00 Hrg re: Creditor, Law Offices of Lynn Chaos's motion for Order Re: Objection to Amended Proof of Claim No. 1-2 [Filed by Claimants Dong, Wang & Hu]

Docket 46

***** VACATED *** REASON: This matter is scheduled to be heard at a different time. See #8 at 2:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

2:14-26361 QTS, INC.

Chapter 7

#18.00 Cont'd Status Conference re: Chapter 7 Case
fr. 9/16/14, 10/21/14, 11/18/14, 11/25/14, 12/16/14,
01/27/15, 2/3/15, 3/10/15, 5/12/15, 07/21/15, 9/8/15,
10/27/15, 11/17/15, 1/19/16, 2/23/16, 3/8/16, 04/26/16,
5/31/16, 7/5/16, 9/13/16, 11/8/16, 11/29/16, 2/7/17,
5/23/17, 9/12/17, 03/06/18, 9/18/18, 12/18/18

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue to 12/8/20 at 11:00 a.m. for the reasons set forth in the Trustee's status report (dkt. 564). Appearances are not required on 12/10/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/18/18:

Continue to 12/10/19 at 11:00 a.m. for the reasons set forth in the Trustee's status report (dkt. 542). Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

CONT... QTS, INC.

Chapter 7

Continue to 12/18/18 at 11:00 a.m. as a holding date, to be further continued for another 3 to 6 months once this Court's 2019 calendar is determined, for the reasons set forth in the Trustee's status report (dkt. 540). Appearances are not required on 9/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Continue to 9/18/18 at 11:00 a.m. for the reasons set forth in the Trustee's status report (dkt. 538). A brief status report from the Chapter 7 Trustee is due 9/4/18, and other parties may but need not join in or file their own status reports. Appearances are not required on 3/6/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

QTS, INC.

Represented By
James R Selth
Elaine Nguyen
Daniel J Weintraub

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

11:00 AM

CONT... QTS, INC.

Jeffrey S Kwong

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#1.00 Hrg re: Motion in Individual Ch 11 Case for Order Employing Professional (LBR 2014-1): A.O.E. Law & Associates, APC as General Bankruptcy Counsel

Docket 89

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2, 12/10/19 at 1:00 p.m.).

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By

Joanne P Sanchez

Anthony Obehi Egbase

Joint Debtor(s):

Angelica Soto Calva

Represented By

Joanne P Sanchez

Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-14078 Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

#2.00 Cont'd status conference re: Chapter 11 case
fr. 7/30/19, 8/20/19, 9/17/19, 10/1/19, 10/29/19,
11/5/19

Docket 42

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances required.

(1) Current issues

(a) Debtors' application to employ A.O.E. Law & Associates, APC (the "Firm") (dkt. 89), UST Objection (dkt. 90); Firm's Supplemental Declaration (dkt. 91 & 110); UST reply (dkt. 103)

Grant the application to employ A.O.E. Law & Associates, APC.

Proposed order: Debtors are directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Conversion or dismissal

Debtors are directed to address why this case should not be converted or dismissed due to the following:

(i) Missing MORs

Debtors have not submitted MORs for the months of October and November. Debtors state that they were unable to file the October MOR until 11/27/19, but dockets 112 and 113 are identical and no October MOR is on file.

(ii) Negative cash flow and overdrawn account

Debtors' had a negative ending balance as of 9/30/19 (dkt. 97, p.1).

(iii) Debtors' explanation raises additional questions

Debtors' explanations of that negative balance includes alleged restrictions by Debtors' bank on non-cash transactions, but there is no evidence except Debtors' statements of any such restrictions (dkt. 113, para. 4-7). Debtors' explanation that both their washer/dryer and their refrigerator needed to be replaced at the same time is suspiciously coincidental (*id.*, para. 14-15). Debtors' explanation that their home allegedly needed exactly \$1,000

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1:00 PM

CONT... **Angel Rodriguez Lara and Angelica Soto Calva** **Chapter 11**

in repairs in order to maintain insurance (*id.* para. 11) is also suspicious because that is a very round number and the lack of evidence of any written demand by the insurer.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Procedures order: dkt. 41 (timely served, dkt. 46)

(c) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(w) Continued status conference: TBD at the status conference.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:
Appearances required.

(1) Current issues

(a) Debtors' valuation motion (dkt. 95), no opposition is on file

The tentative ruling is to grant the valuation motion.

Proposed orders: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Conversion or dismissal

Debtors are directed to address why this case should not be converted or dismissed due to (1) the large amount of cash transactions (without receipts) (Sept. MOR, dkt.97, p.3) and (2) Debtors' negative ending balance

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1:00 PM

CONT... Angel Rodriguez Lara and Angelica Soto Calva
as of 9/30/19 (*id.*, p.1).

Chapter 11

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Procedures order: dkt. 41 (timely served, dkt. 46)

(c) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(w) Continued status conference: TBD at the status conference.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Continue to 11/5/19 at 1:00 p.m. to be concurrent with Debtors' valuation motion (dkt.95), at which time Debtors are directed to address why this case should not be converted or dismissed due to (1) the large amount of cash transactions (without receipts) (Sept. MOR, dkt.97, p.3) and (2) Debtors' negative ending balance as of 9/30/19 (*id.*, p.1). Appearances are not required on 10/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

CONT... Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

Tentative Ruling for 10/1/19:
Appearances required.

(1) Current issues

(a) Retention of replacement counsel

At the hearing on 9/17/19, this Court denied Debtors' application to employ the Law Offices of Lionel Giron (see dkt. 83). Debtors should be prepared to address whether they have retained new counsel and what is the appropriate disposition of this case.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: TBD at the status conference.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed orders: Debtor is directed to lodge proposed orders on the following matters via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)

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Hearing Room 1545

1:00 PM

CONT... Angel Rodriguez Lara and Angelica Soto Calva
(B).

Chapter 11

(1) Current issues

(a) Amended budget motion (dkt. 72)
Grant.

(b) Employment application, Law Offices of Lionel E. Giron (dkt. 50),
United States Trustee's ("UST") opposition (dkt. 61), Mr. Giron's reply (dkt.
65), Mr. Giron's supplemental declaration (dkt. 73), and the UST's reply
(dkt.76)

Deny. At the last hearing this Court set a deadline of 9/3/19 for supplemental declarations of Mr. Giron and Mr. Egbase, and as of the date of this tentative ruling, only the former has been filed, and that is insufficient for the reasons stated at the hearing and in the UST's reply. See dkt. 73, 76.

The parties should be prepared to address how Debtors will transition to new counsel.

(2) Deadlines/dates. This case was filed on 4/10/19 and converted from chapter 13 on 6/18/19.

(a) Bar date: 6/19/19, and supplemental bar date of 8/28/19 after conversion to chapter 11, notice timely served (see dkt. 66, 67)

(b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

CONT... Angel Rodriguez Lara and Angelica Soto Calva

Chapter 11

Party Information

Debtor(s):

Angel Rodriguez Lara

Represented By

Joanne P Sanchez

Anthony Obehi Egbase

Joint Debtor(s):

Angelica Soto Calva

Represented By

Joanne P Sanchez

Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#3.00 Hrg re: Motion to Dismiss or Convert Chapter 11 Case to 7

Docket 120

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 4, 12/10/19 at 1:00 p.m.).

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-12720 Andrea Pompelli Steyn

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr. 04/30/19, 06/04/19, 7/30/19, 10/15/19, 10/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Creditor Scot Fine's Motion to convert or dismiss case (dkt. 120, 121) (the "MTD"); Debtor's opposition (dkt.123); Mr. Fine's reply (dkt.125)

The tentative ruling is to grant the MTD in part and convert this case to chapter 7 on the grounds stated in Mr. Fine's papers, including that debtor's principal residence has been foreclosed upon (see dkt. 101 & 118), Debtor's hope of reorganizing based on a potential future litigation recovery is speculative, and conversion, rather than dismissal, is in the best interests of the estate and creditors because a trustee will be in the best position to evaluate whether Debtor's litigation claims are worth pursuing for the benefit of creditors or whether the estate would be better served by abandoning the claims to Debtor. In addition, conversion will avoid any prejudice to Debtor resulting from the claims possibly being time-barred.

Proposed Order: Mr. Fine is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) October MOR missing; possible expired insurance; and unexplained items

As of the preparation of this tentative ruling, Debtor has not filed a monthly operating report for October. Why not?

Debtor's September MOR (dkt.110, at PDF p.8) states that Debtor's home insurance was set to expire 10/15/19, and her car insurance was set to

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1:00 PM

CONT... **Andrea Pompelli Steyn**

Chapter 11

expire 11/7/19. Is the estate exposed to uninsured risks?

Debtor's September MOR (dkt.110, at PDF p.4) also reflects a \$3,515.63 deposit but there is no explanation whether that is income from some (undisclosed?) source, or a transfer from an (undisclosed?) account, or an (undisclosed) loan, or something else. What is the source of that transfer?

The tentative ruling is that Debtor's failure to remain in timely compliance with all reporting requirements provides additional grounds for conversion to chapter 7. See 11 U.S.C. 1112(b)(4)(F).

(2) Deadlines/dates. This case was filed on 3/13/19 .

(a) Bar date: 6/30/19 (dkt. 45) (timely served 5/2/19, dkt. 47).

(b) Procedures order: dkt.7 (timely served, dkt.13)

(c) Plan/Disclosure Statement*: N/A (if the case is converted)

(d) Continued status conference: N/A (if the case is converted)

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances are not required on 10/29/19.

(1) Current issues

This status conference was continued to today's date by order of this Court (dkt.104). Debtor reports (dkt.108) that the Paseo Miramar Property has been lost in foreclosure, and asks for a further continuance of 90 days to figure out whether to continue in bankruptcy, or seek dismissal or conversion. The tentative ruling is to continue this status conference for a shorter period as set forth below.

(2) Deadlines/dates. This case was filed on 3/13/19 .

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1:00 PM

CONT...

Andrea Pompelli Steyn

Chapter 11

- (a) Bar date: 6/30/19 (dkt. 45) (timely served 5/2/19, dkt. 47).
- (b) Procedures order: dkt.7 (timely served, dkt.13)
- (c) Plan/Disclosure Statement*: TBD
- (d) Continued status conference: 12/10/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Andrea Pompelli Steyn

Represented By
Benjamin Nachimson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/2/19, 08/06/19, 8/20/19, 10/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue to 12/17/19 at 1:00 p.m. concurrent with other matters.
Appearances are not required on 12/10/19.

Tentative Ruling for 10/29/19:

Continue as set forth below. Appearances are not required on 10/29/19.

(1) Current issues

This Court has reviewed Debtor's status report (dkt. 83) and 8/31/19 MOR (dkt.72) and has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/1/19.

(a) Bar date: 9/6/19 (timely served 7/18/19) (dkt. 31, 32)

(b) Plan/Disclosure Statement*: TBD (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/10/19 at 1:00 p.m., No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

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Hearing Room 1545

1:00 PM

CONT... Unified Protective Services, Inc.

Chapter 11

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:18-18929 Newark Special Technologies, Inc. Dba Magorien Hon

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/4/18, 10/9/18, 11/6/18, 12/11/18, 01/15/19,
2/26/19, 3/26/19; 04/30/19, 6/18/19, 9/24/19

Docket 14

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue as set forth below. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Proposed order re untimely service of bar date order

In the tentative ruling for the 9/24/19 hearing, this Court directed Debtor to lodge a proposed order memorializing that this Court is excusing the untimely servicing of the bar date order. As of the drafting of this tentative ruling, no such order has been lodged. Why not?

Debtor is directed to lodge a proposed order within 7 days of this status conference as set forth in Section (2)(a) below.

(b) Debtor's MORs

On the one hand, Debtor's latest MOR (dkt.94) continues to show that Debtor is current on adequate protection payments, and so far as this Court is aware Debtor is otherwise in compliance with DIP obligations. On the other hand, Debtor's hopes of increasing its income appear to be elusive.

Debtor's September MOR (dkt. 93) shows a small increase in Debtor's general account (under \$4,000 increase) (*id.*, p.1) and a slightly larger decrease in the payroll account (just over \$5,000 decrease) (*id.*, p.4). Debtor's October MOR (dkt. 94) shows a small loss in the general account (just under \$2,000 decrease) and in the payroll account (just over \$400 decrease). In addition, Debtor has offered various explanations during this case about why Debtor expects to turn the corner in the near future, but then any (minor) profits in one month appear to be offset by losses the next month, and Debtor's latest explanations (dkt.94, at PDF p.18) are unreadable.

The parties should be prepared to address whether this Court should

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CONT... Newark Special Technologies, Inc. Dba Magorien Hon Chapter 11

fix deadlines for Debtor to file a proposed plan and disclosure statement with a realistic possibility of confirmation, and whether failure to meet any such deadlines should result in dismissal or conversion of this bankruptcy case.

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18: not timely served, see dkt. 24, 35 & 41, but the tentative ruling is that no new bar date needs to be set because of the substantial time after the bar date with no party in interest having asserted prejudice and/or seeking to have an untimely claim allowed. Debtor is directed to lodge a proposed order memorializing that, for the foregoing reasons, this Court is excusing the untimely servicing of the bar date order.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 2/4/20 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Continue as set forth below, subject to lodging the proposed order indicated below. Appearances are not required on 9/24/19.

(1) Current issues

It appears from a review of the August MOR (dkt. 91) that the Debtor's sales have increased and operations are (barely) profitable, with hopes of future increases in profitability. The tentative ruling is that Debtor needs to establish a longer track record of profitability before any proposed plan could be shown to be feasible, and therefore this Court should continue this Status Conference without setting a deadline to file a proposed plan and disclosure

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Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

CONT... Newark Special Technologies, Inc. Dba Magorien Hon
statement.

Chapter 11

(2) Deadlines/dates. This case was filed on 8/2/18.

(a) Bar date: 12/11/18: not timely served, see dkt. 24, 35 & 41, but the tentative ruling is that no new bar date needs to be set because of the substantial time after the bar date with no party in interest having asserted prejudice and/or seeking to have an untimely claim allowed. Debtor is directed to lodge a proposed order memorializing that, for the foregoing reasons, this Court is excusing the untimely servicing of the bar date order.

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 12/10/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Newark Special Technologies, Inc.

Represented By
Joseph L Pittera

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:18-17941 Patricia Ann Theus

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/14/18, 9/18/18, 10/16/18, 11/27/18, 01/09/18,
2/5/19; 04/02/19, 05/21/19, 7/2/19, 8/6/19, 10/15/19

Docket 7

***** VACATED *** REASON: Cont'd to 2/18/20 at 1:00 p.m. [dkt. 129]**

Tentative Ruling:

Party Information

Debtor(s):

Patricia Ann Theus

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#8.00 Cont'd status conference re: Chapter 11 case
fr. 9/24/19, 11/12/19

Docket 1

***** VACATED *** REASON: To be heard at 2:00 p.m. (calendar no.11).**

Tentative Ruling:

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#9.00 Cont'd hrg re: Debtor's Emergency Motion for Entry of an Interim Order, Pending a Final Hearing Authorizing the Debtor to Use Cash Collateral
fr. 10/2/19, 10/15/19, 10/29/19

Docket 5

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see the tentative ruling for the status conference (calendar no. 10, 12/10/19 at 1:00 p.m.)

Tentative Ruling for 10/29/19:

Please see the tentative ruling for the status conference (calendar no. 21, 10/29/19 at 2:00 p.m.)

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference (calendar no. 4, 10/15/19 at 2:00 p.m.)

[PRIOR TENTATIVE RULING OMITTED]

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/2/19, 10/15/19, 10/29/19, 11/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances are not required on 12/10/19.

(1) Current issues

(a) Cash collateral motion (dkt. 5)

Grant on a further interim basis, on the same terms and conditions as previously ordered, except for the revised budget (dkt. 125, Ex.A), through the conclusion of a continued hearing on 1/7/19 at 2:00 p.m.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: 1/17/20 (Order dkt. 97, timely served, dkt.101).

(b) Procedures order: dkt.18 (timely served, dkt. 25)

(c) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 12/17/19 at 1:00 p.m. to be concurrent with other scheduled matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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1:00 PM

CONT... Tatung Company of America, Inc. Chapter 11
by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[Prior Tentative Rulings omitted]

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-20273 Alex Christopher Padilla

Chapter 11

#11.00 Hrg re: Motion for relief from stay [RP]

BEVERLY PARTNERS, LLC
vs
DEBTOR

Docket 47

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see the tentative ruling for the status conference (calendar no. 13, 12/10/19 at 1:00 p.m.).

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

Movant(s):

Beverly Partners, LLC

Represented By
Simon Aron

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 10, 2019

Hearing Room 1545

1:00 PM

2:19-20273 Alex Christopher Padilla

Chapter 11

#12.00 Cont'd hrg re: Motion to Individual Chapter 11 Case for
Order Authorizing Use of Cash Collateral
fr. 10/1/19, 10/29/19

Docket 19

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see the tentative ruling for the status conference (calendar no. 13,
12/10/19 at 1:00 p.m.).

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

Movant(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

2:19-20273 Alex Christopher Padilla

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/17/19, 10/1/19, 10/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances are not required. on 12/10/19, but Debtor and Beverly Partners, LLC ("Beverly") are directed, well ahead of the continued hearing date set forth below, to take whatever steps are necessary or appropriate to address the issues set forth below (e.g., correcting service and/or proofs of service, lodging proposed order(s), filing corrected MORs, etc.).

(1) Current issues

(a) Beverly's motion for relief from automatic stay (dkt. 47); Debtor's opposition (dkt. 50); Beverly's reply (dkt. 53)

Beverly's proof of service does not show service on the list of creditors included in Debtor's "list filed under Rule 1007(d)" (as required by Rule 4001(a)(1), Fed. R. Bankr. P.). See dkt. 1. The tentative ruling is to continue this hearing to 12/17/19 at 1:00 p.m., with a deadline of 12/11/19 for Beverly to serve all required persons with notice of the continued hearing, and file a proof of service.

(b) Cash collateral motion (dkt.19)

No proposed order has been lodged - at the hearing on 10/1/19 this Court directed counsel to lodge a proposed order granting the motion on an interim basis and attaching (and adopting) a copy of this Court's tentative ruling for that date (available at www.cacb.uscourts.gov). In addition, Debtor did not file and serve a notice of the final hearing by 10/3/19. In addition, any such service would have to be in compliance with the applicable rules for service, as stated in that adopted tentative ruling.

The current tentative ruling is (i) to direct counsel, again, to lodge a proposed order granting the motion on an interim basis through the conclusion of the final hearing, (ii) to set a final hearing for the same date and time as the continued status conference (see below), and (iii) to set a deadline of 12/11/19 for Debtor to file and serve notice of the final hearing in

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CONT... Alex Christopher Padilla

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compliance with the applicable rules for service.

(c) Proof of service of bar date order (dkt.28)

Debtor's counsel has had trouble with service of this order and/or proving that it was served as required. See dkt. 35,36,37. Even the latest, second amended proof of service (dkt.37) is inadequate in that it fails to state who actually served the order and when they did so. Implicitly, the person who signed the proof of service, Paulina Buitron, is the person who actually deposited the envelopes in the U.S. mail, and that was done sometime between 9/30/19, when the order was supposed to have been served, and 10/3/19, when the proof of service was filed, but the declaration does not actually say so. In addition, at the hearing on 10/1/19 this Court directed Debtor's counsel to double-check that all creditors had in fact been served and, if not, to apply for an order setting a supplemental bar date as to any creditors who have not been served.

The tentative ruling is to excuse what appears to be untimely service of the bar date order by a few days, and set a deadline of 12/11/19 (i) for Debtor's counsel to file a third amended proof of service of the bar date order, using the local form (mandatory for all motions) (see Local Form F9013-3.1.PROOF.SERVICE), (ii) to lodge a proposed order excusing the untimely service of the bar date order, with a copy of this tentative ruling attached, and (iii) if necessary, apply for a supplemental bar date for any creditors who were not served with the bar date order, and lodge a proposed supplemental bar date order.

(d) Debtor's Monthly Operating Reports ("MORs")

Debtor appears to be having trouble complying with his obligations as a debtor in possession, including not paying prepetition debts. In addition, the October MOR (dkt.49) appears to show lossess from most of Debtor's various businesses, and perilously low bank balances, even with the reduced dollar amount of the adequate protection payments to Beverly (less than the ongoing interest obligation). In addition, there is an internal inconsistency about postpetition adequate protection and/or lease payments: the October MOR (dkt.49, at PDF p.57 of 61) lists "0" postpetition payments not made (*i.e.*, Debtor allegedly is postpetition current), but then the same table lists "Total Due" postpetition amounts of many thousands of dollars - which is it? Is Debtor postpetition current in payments to secured creditors and/or lessors, or not?

The tentative ruling is to direct Debtor (i) to confer with the Office of the

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United States Trustee and file whatever corrected MORs are necessary or appropriate, and (ii) to be prepared to address the foregoing issues at the continued status conference.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (see Order, dkt.28; see above)

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/17/19 at 1:00 p.m. (short continuance because Beverly's motion for relief from the automatic stay should be addressed soon). No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

[N/A: continued to 12/10/19 (dkt.43)]

Tentative Ruling for 10/1/19:

Appearances required by counsel for Debtor(s) and by Debtor himself.

(1) Current issues

(a) Cash collateral motion

Grant (subject to this Court's standard conditions, see calendar no.1, 10/1/19 at 1:00 p.m.), provided that Debtor must address why this motion was not self-calendared for hearing until over a month after the petition date, and whether, meanwhile, has Debtor (i) been using cash collateral without

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Chapter 11

authorization (in violation of 11 U.S.C. 363(c) or (ii) not been using cash collateral, and hence failing to pay ordinary and necessary business and personal expenses, in violation of Debtor's duties to pay postpetition debts as they come due and preserve and maximize the value of the bankruptcy estate. 11 U.S.C. 1107(a) and 1108, and 28 U.S.C. 959(b). The tentative ruling is that, although this is not yet sufficient cause for appointment of a chapter 11 trustee or other remedies, it may factor into consideration of any such remedies in future.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (see Order, dkt.28).

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for Debtor(s) and by Debtor himself.

(1) Current issues

(a) Budget Motion

Debtor's status report incorrectly states that a budget motion is not required by the presiding judge's procedures. Dkt. 20, p.3. See posted Procedures of Judge Bason (available at cacb.uscourts.gov) (the "Bason Procedures") Section VII.G. In addition, a budget motion appears to be

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particularly important in this case because most of Debtor's income and expenses are effectively hidden and/or mis-reported.

Debtor's Bankruptcy Schedule I reports that he is an interior designer/hair stylist (dkt.22, at PDF p.27), his Statement Of Financial Affairs ("SOFA") lists various "dba" enterprises that might or might not reflect other business ventures, and Debtor apparently rents out some of his properties using Airbnb, but there is no breakdown of any of this. Contrary to the instructions on line 8a of Schedule I, debtor lists only a total net dollar amount for all businesses/properties combined - \$22,598.00 per month - and fails to attach a statement for each business/property showing gross receipts, ordinary and necessary business expenses, and the calculation of net income. Also, in apparent contradiction of this alleged monthly net income, the SOFA (dkt. 22 at PDF p.31) lists gross income of \$20,000 for the year to date (9 months), \$7,875 for 2018, and \$28,223 for 2017. (Perhaps Debtor listed monthly net income instead of yearly gross income - if so he must file a corrected SOFA.)

The tentative ruling is to direct Debtor to file an amended Schedule I and an amended SOFA, and to file and serve a budget motion and any other documents that are necessary or appropriate to correct the foregoing deficiencies, no later than 9/27/19.

(b) Bankruptcy Schedule G

Debtor lists no executory contracts or unexpired leases (dkt.22, at PDF p.24). What about Airbnb and/or other short-term or long-term rental arrangements? The tentative ruling is to direct Debtor to file an amended Schedule G no later than 9/27/19.

(c) Cash collateral

Even though this case was filed on 8/30/19, Debtor did not self-calendar his cash collateral motion for hearing until over a month later, on 10/1/19 at 1:00 p.m. Meanwhile, has Debtor (i) been using cash collateral without authorization (in violation of 11 U.S.C. 363(c)) or (ii) not been using cash collateral, and hence failing to pay ordinary and necessary business and personal expenses, in violation of Debtor's duties to pay postpetition debts as they come due and preserve and maximize the value of the bankruptcy estate. 11 U.S.C. 1107(a) and 1108, and 28 U.S.C. 959(b). The tentative ruling is that, although this is not yet sufficient cause for appointment of a chapter 11 trustee or other remedies, it may factor into consideration of any such remedies in future.

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Alex Christopher Padilla

Chapter 11

(d) Employment Application

The tentative ruling is to set a deadline of 9/27/19 for Debtor to file and serve local form F 2014-1.STMT.DISINTERESTED.PROF in support of Debtor's application to employ Eric Bensamochan as his bankruptcy counsel (dkt. 18). See Bason Procedures Section VII.D.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/1/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:19-18998 NAMR1726 LLC

Chapter 11

#14.00 Cont'd hrg re: U.S. Trustee's motion to dismiss or convert case
fr. 9/24/19, 10/15/19, 10/29/19

Docket 37

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see the tentative ruling for the status conference (cal. no.15, 12/10/19 at 1:00 p.m.).

Tentative Ruling for 10/29/19:

Please see the tentative ruling for the status conference (cal. no.19, 10/29/19 at 1:00 p.m.).

Tentative Ruling for 10/15/19:

Please see the tentative ruling in status conference (cal. no.16, 10/15/19 at 1:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling in status conference (cal. no. 8, 9/24/19 at 1:00 p.m.).

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

**United States Bankruptcy Court
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1:00 PM

2:19-18998 NAMR1726 LLC

Chapter 11

#15.00 Cont'd status conference re: Chapter 11 case
fr. 9/10/19, 9/24/19, 10/15/19, 10/29/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances required. Debtor is reminded that this Court's order setting today's status conference (dkt. 78) directs Debtor's principal to appear in person.

(1) Current issues

(a) Motion of United States Trustee ("UST") to Dismiss etc. ("MTD," dkt. 37), Debtor's Opposition (dkt. 55)

Debtor's status report concedes that it has still not addressed all of the issues raised in the UST's MTD, because it has been unable to open DIP accounts (see dkt. 86, p. 2). Additional grounds to dismiss or convert this case are set forth in objections of the UST (dkt.83) and Maxim Commercial Capital, LLC (dkt.85, Ex.1) to Debtor's application to employ a broker, which appears to be a sham designed to give the appearance of pursuing a sale of the Hedges property without actually pursuing any realistic path to do so. In addition, this Court's order setting procedures (dkt.9) provides that at any status conference this Court may take case-dispositive actions, such as dismissal or conversion, as reiterated in this Court's order setting this hearing (dkt.78).

The tentative ruling is either to dismiss this case with a two year bar against being a debtor in any future bankruptcy case (with a concurrent 180 day bar under 11 U.S.C. 109(g)(1)) for willful failure to appear in proper prosecution of this case, or alternatively to convert this case to chapter 7 so that an independent trustee can determine whether to pursue leasing the Yermo property and selling the Hedges property. The parties are directed to address which remedy would be in the best interests of creditors. See *generally* 11 U.S.C. 105(a), 349(a), 1307(a) *and In re Glover*, 537 Fed.Appx. 741 (9th Cir. 2013) (affirming dismissal with a five-year bar to refiling under 11 U.S.C. 105(a)); *In re Leavitt*, 171 F.3d 1219 (9th Cir. 1999) (affirming

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CONT... NAMR1726 LLC

Chapter 11

dismissal with prejudice based on finding of bad faith, considering whether debtor misrepresented facts, unfairly manipulated Code, or otherwise filed his petition or plan in inequitable manner; debtor's history of filings and dismissals; whether the debtor intended to defeat state court litigation; and whether egregious behavior is present).

The parties are reminded that, in the event of dismissal (either currently or at any future time), this Court will retain jurisdiction to the maximum extent permitted by law. See LBR 1017-2(f). Thus, this Court will retain jurisdiction to address the issues that Maxim has raised about alleged abuse of the bankruptcy process, including any motions for sanctions, disgorgement of attorney fees, etc.

Proposed order: The UST is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Coldwell Employment Application - sale of Hedges property (dkt. 80, 81, 82); UST Objection (dkt. 83), Maxim Objection & Errata (dkt. 84, 85), no reply is on file

The tentative ruling is that this application will be mooted by dismissal or conversion. Alternatively, the tentative ruling is to deny the application without setting a hearing on it, for the reasons stated by the UST and Maxim.

Proposed order: The UST is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(c) Leasing broker employment application (Craig Higdon & Dragon Realty, re Yermo Property) (dkt. 72); Maxim Obj (dkt. 77)

Debtor has not filed any reply, or set this matter for hearing, or lodged any proposed order. In other words, Debtor appears to be "sitting on" this matter. Why? The tentative ruling is that this is further evidence of Debtor willfully failing to appear in proper prosecution of this case.

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).

(b) Procedures Order: dkt.9 (timely served, dkt.44)

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CONT...

NAMR1726 LLC

Chapter 11

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference (if this case is not dismissed or converted): 1/7/20 at 1:00 p.m. Brief written status report due 12/30/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:
Appearances required.

(1) Current issues

(a) Insufficient progress?

The docket reflects some very recent movement toward leasing some vacant properties (dkt.72) but nothing about selling, refinancing, or otherwise dealing with the principal property in which Debtor asserts an interest, at 8527 Hedges Way, West Hollywood, CA. Why not?

(e) Motion of United States Trustee ("UST") to Dismiss etc. ("MTD," dkt. 37), Debtor's Opposition (dkt. 55)

Has Debtor address the issues raised in the UST's MTD? In addition, this Court's order setting procedures (dkt.9) provides that at any status conference this Court may take case-dispositive actions, such as conversion, dismissal, etc. Given the lack of progress, should this Court dismiss this case? Should this Court impose a bar under 11 U.S.C. 109(g)(1)?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).

(b) Procedures Order: dkt.9 (timely served, dkt.44)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference (if this case is not dismissed or

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NAMR1726 LLC

Chapter 11

converted): 12/10/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:
Appearances required.

(1) Current issues

(a) Inaccurate bankruptcy schedules

Why has Debtor not amended its bankruptcy schedules to reflect all of its creditors (at the 9/24/19 status conference it was reported that Debtor failed to list creditors with liens against three vacant parcels of real property)?

(b) Lack of any progress reflected on docket

As this Court previously has ruled, in connection with creditor Maxim's motion for relief from the automatic stay, "the longer this case is pending the greater will be the burden on Debtor to provide specific information and evidence as to precisely how [each] property [that Debtor claims to own] remains necessary to an effective reorganization." Dkt.36, Ex.1, at PDF p.4. Why does the docket not reflect any progress, such as a motion to approve employment of a real estate broker, or a motion to approve refinancing, or a motion to abandon one or more properties?

(c) Missing status report

At the status conference on 9/24/19, this Court set a deadline of 10/4/19 for debtor to file a status report and an application to employ new counsel. Why has no status report been filed?

(d) Missing Local Form F 2014-1

Debtor has filed an application to employ Pena & Soma, APC (dkt. 68), but the posted Procedures of Judge Bason require Local Form 2014-1.

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Where is that form?

(e) Motion of United States Trustee ("UST") to Dismiss etc. ("MTD," dkt. 37), Debtor's Opposition (dkt. 55)

Has Debtor address the issues raised in the UST's MTD? In addition, this Court's order setting procedures (dkt.9) provides that at any status conference this Court may take case-dispositive actions, such as conversion, dismissal, etc.

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).

(b) Procedures Order: dkt.9 (timely served, dkt.44)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 11/5/19 at 1:00 p.m., *brief* status report due 10/28/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required.

(1) Current issues

(a) Motion to Dismiss, Convert or Appoint a Chapter 11 Trustee (dkt. 37), Debtor's Opposition (dkt. 55), no reply is on file

If Debtor is not in full compliance with all UST requirements by the hearing, this Court will determine whether to dismiss, convert or appoint a chapter 11 trustee in this case.

(b) Application to Employ Ure Law Firm (dkt. 24), Statement of Disinterestedness (dkt. 23), Maxim's Oppositions (dkt. 31, 50), Notice of

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hearing (dkt. 40), Debtor's Reply (dkt. 61)

The tentative ruling is to deny Debtor's request to employ the Ure Law Firm ("Ure Firm"), and set a **10/4/19** deadline for Debtor to file and serve an application to retain new counsel, for the following reasons:

(i) Mr. Ure and the Ure Firm are not "disinterested" and represent an "adverse interest" to the estate by reason of their representation of HDA Trucking, Inc. and Nelson Sargsyan

11 U.S.C. Section 327(a) "requires the application of a two-pronged test for the employment of professional persons. A debtor-in-possession may employ attorneys with court approval only if (1) they do not hold or represent an interest adverse to the estate, and (2) they are disinterested persons." *In re Tevis*, 347 B.R. 679, 687 (9th Cir. BAP 2006).

The term "adverse interest" is not defined in the Bankruptcy Code, but has been defined by case law to mean:

(1) possession or assertion of an economic interest that would tend to lessen the value of the bankruptcy estate; or (2) possession or assertion of an economic interest that would create either an actual or potential dispute in which the estate is a rival claimant; or (3) possession of a predisposition under circumstances that create a bias against the estate.

Tevis, 347 B.R. 679, 688. "To represent an adverse interest means to serve as an attorney for an entity holding such an adverse interest." *Id.*

The term "disinterested person" is defined in the Bankruptcy Code to include, *inter alia*, one who "does not have an interest materially adverse to the interests of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason." 11 U.S.C. Section 101(14) (C). "For the purpose of disinterestedness, a lawyer has an interest materially adverse to the interest of the estate if the lawyer either holds or represents such an interest." *Tevis*, 347 B.R. 679, 688.

The tentative ruling is to find that because Mr. Ure and the Ure Firm represented HDA Trucking, Inc. ("HDA Trucking") in its recent bankruptcy case (Case No. 1:19-bk-11595-DS) (the "HDA Trucking Bankruptcy Case"), and have represented HDA Trucking's principal, Nelson Sargsyan ("Mr. Sargsyan"), in his pending bankruptcy case (Case No. 1:19-bk-10790-VK) (the "Sargsyan Bankruptcy Case"), the Ure Firm is not a "disinterested person" and represents an "adverse interest" to the estate for purposes of

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this case because Debtor's Bankruptcy Schedules identify HDA Trucking as a creditor of Debtor's estate (see dkt. 1, PDF pp.6 & 16) and because there have been inconsistent representations made by HDA, Sargsyan, and Debtor regarding the chain of interests in 8527 Hedges Way, Los Angeles, California 90069 (the "Hedges Property"), which is the real property that is at the center of all these bankruptcy cases.

(ii) Mr. Ure and the Ure Firm violated Rule 2014(a) by failing to disclose their connection with Mr. Sargsyan and HDA Trucking

Rule 2014(a) (Fed. R. Bankr. P.) requires that a firm's application for employment disclose "all of the [applicant's] connections with the debtor, creditors, [or] any other party in interest" The disclosure requirements of Rule 2014 are strictly applied. *In re Park-Helena Corp.*, 63 F.3d 877, 881 (9th Cir. 1995). Professionals "cannot pick and choose which connections are irrelevant or trivial . . . No matter how old the connection, no matter how trivial it appears, the professional seeking employment must disclose it." *Id.* at 882.

In this case, Mr. Ure and the Ure Firm failed to disclose their prior representation of HDA Trucking in its bankruptcy case, or their prior and current representation of Mr. Sargsyan in his bankruptcy case, in either the Application (dkt. 24) or the Statement of Disinterestedness (dkt. 23).

For the foregoing reasons, the tentative ruling is that the Ure Firm is disqualified from representing the Debtor and its employment must be denied.

(c) Maxim's Rule 9011 Sanction Motion (dkt. 32), Mr. Ure/Ure Firm's Opposition (dkt. 54), Maxim's Reply (dkt. 57)

Maxim Commercial Capital, LLC ("Maxim") seeks an order imposing sanctions against Mr. Ure and the Ure Firm for alleged violations of Rule 9011 (Fed. R. Bankr. P.).

(i) Background

As best as this Court can discern from its review of various pleadings filed in this case, the Sargsyan Bankruptcy Case, and the HDA Trucking Bankruptcy Case, the relevant facts are as follows:

On 4/7/16 Maxim made a loan to NAMR 2617, LLC ("Other-NAMR") in the sum of \$2,669,365 (the "Loan"). The Loan was personally guaranteed by Mr. Sargsyan and Alice and Nazaret Chakrian (the "Chakrians," and together with Mr. Sargsyan, the "Guarantors"). The Guarantors also executed a deed of trust securing their guaranties of the Loan against the Hedges Property.

On 12/30/16, Mr. Sargsyan recorded a Grant Deed conveying his

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interest in the Hedges Property to Nazaret Chakrian ("Mr. Chakrian") (dkt. 11, PDF p. 352-356). The parties subsequently executed a number of loan modifications and, ultimately, the Loan fully matured without timely payment. As a result, the Hedges Property was noticed for a judicial foreclosure sale on 4/5/19.

On 4/3/19 Mr. Sargsyan filed a voluntary chapter 7 petition and asserted a 25% ownership interest in the Hedges Property (Sargsyan Bankruptcy Case, 1:19-bk-10790-VK, dkt. 1, Schedule A/B). On 5/1/19 Maxim filed a motion for relief from the automatic stay with respect to the Hedges Property (the "Sargsyan R/S Motion," *id.*, dkt. 18). Mr. Ure, acting for Debtor Sargsyan, filed an opposition (*id.*, dkt. 33, p.2:1-3), which did not argue that Debtor Sargsyan had any interest in the Hedges Property (contrary to what he had indicated in his bankruptcy schedules) but did argue that Mr. Sargsyan had "personally guaranteed the loan" with Maxim.

Following a hearing on the Sargsyan R/S Motion, the Bankruptcy Court entered an order denying the motion as moot based on the Court's finding that the Hedges Property was not property of Mr. Sargsyan's estate because Mr. Sargsyan had conveyed away his interest in the Hedges Property to Nazaret Chakrian ("Mr. Chakrian") pre-petition, on 9/30/16 (*see id.*, dkt. 51, Ex. 1) (the "Sargsyan R/S Order"). After entry of the Sargsyan R/S Order, Maxim re-noticed a foreclosure sale for 8/2/19.

On 6/28/19, Mr. Sargsyan caused HDA Trucking to file a voluntary chapter 11 petition and assert an ownership interest in the Hedges Property (HDA Trucking Bankruptcy Case, 1:19-bk-11595-DS, dkt.1, Schedule A/B). According to Maxim, HDA Trucking has no such interest in the Hedges Property.

On 7/24/19, the United States Trustee (the "UST") filed a motion to appoint a trustee or convert or dismiss that case (*id.*, dkt. 24). At the hearing on that motion, HDA Trucking stipulated to the dismissal of the case and the case was dismissed by order entered 7/31/19 (*id.*, dkt. 27).

On 8/1/19 the instant bankruptcy case was filed by Debtor (which is similarly named, but not the same as, the Other-NAMR). Debtor asserts an interest in the Hedges Property pursuant to a Grant Deed recorded on 4/2/19 in which Mr. Chakrian conveyed a 10% interest in the Hedges Property to Debtor (dkt. 1, Schedule A/B & dkt. 11, PDF pp. 361-364).

Almost immediately after this bankruptcy case was filed, Maxim filed an emergency motion for relief from the automatic stay and this Court

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shortened time, reviewed briefs, heard arguments, made oral findings of fact and conclusions of law on the record, and issued an order that prevented any future bankruptcy case from affecting the Hedges Property (subject to the usual limitations on such relief). Dkt.36. But this Court declined to terminate the automatic stay at this time (*id.*) because, among other things, (A) other creditors' interests are at stake, (B) on the evidence presented Maxim's interests are fully adequately protected, and (C) Debtor may be able to restructure its finances in a manner that will benefit all parties in interest.

At that early hearing this Court suggested that a transfer of a fractional interest among related entities is not necessarily evidence of bad faith. This Court took judicial notice that debtors and their affiliates not infrequently engage transfers of fractional interests as a way to balance the accounts among them, or for other reasons that may be perfectly consistent with good faith, even if they violate provisions of loan documents or other obligations.

But this Court's unwillingness to suppose bad faith at the inception of this case, before adequate time to respond, should not be misconstrued as giving a blanket exemption from any subsequent finding of bad faith or other misconduct. This Court is troubled by some of the conduct outlined in Maxim's motion papers.

With this context, this Court turns to Maxim's motion for sanctions.

(ii) Maxim has not established that Judge Bason can or should impose sanctions under Rule 9011 for conduct that occurred in bankruptcy cases that are *not* before Judge Bason

As a preliminary matter, Maxim has not addressed whether it would be proper, or even within the jurisdiction of the instant bankruptcy case, for Judge Bason to impose sanctions regarding any cases that are not pending before Judge Bason. The Sargsyan Bankruptcy Case is still pending before Judge Kaufman, and the HDA Trucking Bankruptcy Case was pending before Judge Saltzman, and the tentative ruling is that any request for sanctions for conduct in those cases must be presented to those Bankruptcy Judges.

That is not to say that prior conduct in other cases is irrelevant. Such prior conduct may establish a pattern of conduct that extends into this case, or may otherwise shed light on the conduct in this case. But the tentative ruling is that Judge Bason will only consider sanctions regarding conduct in the instant bankruptcy case.

(iii) Maxim has not established misconduct in connection with the Sargsyan Bankruptcy Case

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Maxim asserts - as part of its argument that Mr. Ure's conduct and the Ure Firm's conduct in this case is sanctionable - that there is a pattern of abuse starting with the filing of the Sargsyan Bankruptcy Case. The tentative ruling is that this assertion is not persuasive.

Nothing in Maxim's papers establishes that it was frivolous or otherwise improper for Mr. Ure and the Ure Firm to oppose Maxim's request for relief from the automatic stay in the Sargsyan Bankruptcy Case, in light of Debtor Sargsyan's position as a Guarantor. True, the automatic stay's protection against *in rem* acts generally extends only to property of the debtor (see 1:19-bk-10790-VK, dkt.51 (the Sargsyan R/S Order)); and the automatic stay's protection against *in personam* acts generally extends only to the debtor. See, e.g., *In re Advanced Ribbons and Office Prod's, Inc.*, 125 B.R. 259, 262-67 (9th Cir. BAP 1991) (guarantor, and guarantor's property, not protected). But Maxim has not cited any authority that it was frivolous for Debtor Sargsyan to take the position that acts to foreclose the Hedges Property, based on a debt he guaranteed, were acts "to collect, assess, or recover a claim against the debtor that arose before the commencement of the [bankruptcy] case" within the meaning of 11 U.S.C. 362(a)(6), if not based on existing caselaw then based on a nonfrivolous assertion regarding "extension, modification, or reversal of existing law or the establishment of new law." Rule 9011(b)(2). The tentative ruling is that there is nothing sanctionable in making this argument.

True, Mr. Sargsyan, Mr. Ure, and the Ure Firm should have been more careful in verifying that Debtor did in fact have an interest in the Hedges Property before Debtor Sargsyan said so, under penalty of perjury, in his bankruptcy schedules. And it would have been preferable for the Ure Firm to cite some authority for their position, or expressly argue for an extension of existing law or other nonfrivolous legal grounds, and to amend the bankruptcy schedules once the record ownership of the property became apparent.

But, given the transfers back and forth (described above), and the last-minute scramble that almost invariably precedes an emergency bankruptcy filing, it appears that the original misstatement of ownership in the bankruptcy schedules, and the lack of citation to legal authority in opposing the Sargsyan R/S Motion, are more consistent with a lack of adequate time than any intentional falsehood or misconduct. And once it became apparent that the automatic stay did not protect the property, it is understandable (although not the ideal course of action) to move on and not take the time to amend the

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bankruptcy schedules.

(iv) Maxim has established apparent misconduct in connection with the HDA Trucking Bankruptcy Case

Maxim asserts that HDA Trucking had no interest in the Hedges Property whatsoever, and yet falsely listed that property on its bankruptcy schedules. Dkt.32, p.7:5. The Ure Firm has not offered any explanation why, even after the incorrect assertion by Mr. Sargsyan of an ownership interest in the Hedges Property, it filed another bankruptcy case that, once again, asserted an ownership interest that is not supported by any evidence. The tentative ruling is that this is *prima facie* evidence of the Ure Firm's lack of "inquiry reasonable under the circumstances" and apparent filing of the petition for an improper purpose - namely a scheme to hinder, delay, or defraud Maxim. Rule 9011(b)(1).

Alternatively, the tentative ruling is that this is also *prima facie* evidence of a factual contention that, after "an inquiry reasonable under the circumstances," does not have "evidentiary support," or that has not been "specifically [] identified" as "likely to have evidentiary support after a reasonable opportunity for further investigation or discovery." Rule 9011(b)(3).

In the face of such *prima facie* evidence of a violation of Rule 9011, the burden was on Mr. Ure and the Ure Firm to present contrary evidence of at least equal weight. They have not done so.

Again, the tentative ruling is that this Court should not impose any sanctions for any alleged misconduct in the HDA Trucking Bankruptcy Case. But the apparent violations of Rule 9011 in that case establish a pattern that calls into question any allegedly similar conduct in the instant case.

(v) It is premature for this Court to determine whether the filing of the instant bankruptcy case, or how it has been prosecuted, is sanctionable under Rule 9011

On the one hand, the facts discussed above are evidence that Mr. Ure and the Ure Firm have participated in efforts to frustrate Maxim's exercise of its remedies, and have done so using tactics that appear to violate Rule 9011. It is possible that the transfer of a fractional interest to Debtor, and the filing of the instant bankruptcy case, are part of that scheme and are sanctionable.

On the other hand, it is also possible that the transfer of a fractional interest to Debtor was nothing more than an attempt retroactively to "unscramble the eggs" and have the record title to the Hedges Property

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reflect what Mr. Sargsyan, the Chakrians, and other affiliates all had intended to be the reality of their financial relationships. True, Mr. Ure and the Ure Firm have had an opportunity to present any such explanation, with supporting evidence, and they have failed to do so. But this Court is wary of imposing sanctions without providing them with an opportunity to explain why they did not offer an explanation in their opposition papers, and why they should be granted an opportunity to do so now.

In addition, depending on how this instant bankruptcy case progresses, it may become more apparent over time whether there is a reasonable possibility of a successful reorganization within a reasonable time, and other factors that might bear on whether this case was or was not filed in good faith. It is also possible that Debtor will obtain refinancing and pay Maxim in full, or that some other developments in this case will bear on issues such as whether Maxim has suffered any un-reimbursed expenses, all of which may be relevant to its sanctions motion.

For all of these reasons the tentative ruling is that it is premature for this Court to determine any sanctions issues, and the tentative ruling is to take Maxim's sanctions motion off calendar, and determine at a future status conference when it should be put back on calendar. Meanwhile, the tentative ruling is that no further briefing on the sanctions issues will be accepted or considered absent further order of this Court.

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (dkt. 56; timely served dkt. 62).

(b) Procedures Order: dkt.9 (timely served, dkt.44)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 10/15/19 at 1:00 p.m., *brief* status report due 10/4/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/26/19 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

What are Debtor's prospects for obtaining paying tenants and/or selling or refinancing the properties it owns? Has Debtor resolved the pending issues with the United States Trustee?

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(2) Deadlines/dates. This case was filed on 8/1/19.

(a) Bar date: 12/30/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 9/26/19 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

NAMR1726 LLC

Represented By
Thomas B Ure

Movant(s):

NAMR1726 LLC

Represented By
Thomas B Ure

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Chapter 11

#16.00 Hrg re: Motion to Determine the Validity and Enforceability of Provisions of Promissory Note and Deed of Trust Held by Secured Creditor Patch of Land

Docket 125

***** VACATED *** REASON: Cont'd to 1/14/20 at 1:00 p.m. [dkt. 125]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

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#17.00 Cont'd hrg re: U.S. Trustee's motion to dismiss or convert case
fr. 10/15/19, 10/29/19

Docket 65

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see the tentative ruling in the status conference (cal. no. 19, 12/10/19 at 1:00 p.m.).

Tentative Ruling for 10/29/19:

Please see the tentative ruling in the status conference (cal. no. 10, 10/29/19 at 1:00 p.m.).

Tentative Ruling for 10/15/19:

Please see the tentative ruling in the status conference (cal. no. 3, 10/15/19 at 1:00 p.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

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#18.00 Cont'd hrg re: Application for payment of interim fees and/or expenses
[Michael R. Totaro, Totaro & Shanahan]
fr. 11/12/19

Docket 111

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see tentative ruling for status conference (calendar no. 19, 12/10/19 at 2:00 p.m.).

Tentative Ruling for 11/12/19:

Please see tentative ruling for status conference (calendar no. 6, 11/12/19 at 1:00 p.m.).

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Michael R Totaro

Movant(s):

Ashley Susan Aarons

Represented By
Michael R Totaro
Michael R Totaro

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#19.00 Cont'd Status Conference re: Chapter 11 Case
fr. 8/20/19, 9/24/19, 10/4/19, 10/15/19, 10/29/19,
11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances are not required on 12/10/19.

(1) Current issues

(a) Totaro & Shanahan's (the "Firm") 1st interim fee application (dkt. 111) (the "Fee Application"); UST's objection (dkt. 114); Patch of Land Lending, LLC's ("Patch") limited objection (dkt. 115); the Firm's reply (dkt. 121), Firm's supplemental declaration (dkt. 128)

In view of the Firm's supplemental declaration and the absence of any supplemental responses from the UST or Patch, the tentative ruling is to approve fees of \$54,010 and expenses of \$0.00 on an interim basis, for a total award of \$54,010, but no payment may be made absent further order of this Court.

Proposed order: The Firm is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65), debtor's opposition (dkt. 86), no reply is on file

Continue to be concurrent with the continued status conference (see below).

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 1/14/20 at 1:00 p.m.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

(1) Current issues

(a) Totaro & Shanahan's (the "Firm") 1st interim fee application (dkt. 111) (the "Fee Application"); UST's objection (dkt. 114); Patch of Land Lending, LLC's ("Patch") limited objection (dkt. 115); the Firm's reply (dkt. 121)

Continue to the same date and time as the continued status conference stated below. Set **11/19/19** as the deadline for the Firm to submit any supplement in support of the Application and **11/26/19** as the deadline for any supplemental responses from the UST and Patch.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: 12/20/19, dkt. 116 (timely served, dkt. 120)

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/10/19 at 1:00 p.m.; *brief* status report due 11/22/19

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion of the U.S. Trustee ("UST") to dismiss (dkt. 65), debtor's opposition (dkt. 86), no reply is on file

There is no tentative ruling, but Debtor is directed to address the thousands of dollars of unauthorized payments to "Independent Contractor[s]" Ofir Engel and L. Napolitano, "McCarthy Construction," and cash withdrawals, as well as the other issues raised by the UST. Debtor is also directed to address what progress, if any, has been made on insurance claims, AirBnB arrangements, refinancing or selling the Bel Air and Sweetzer properties, and other aspects of this bankruptcy case.

(b) Application to employ Totaro & Shanahan (the "Firm") (dkt. 63) (the "Employment Application"), Statement of disinterestedness (dkt. 100), UST Objection (dkt. 90), the Firm's errata (dkt. 97)

The tentative ruling is to grant the Employment Application, subject to any objection from the UST.

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Procedures order: dkt.9 (timely served, dkt.18)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/10/19 at 1:00 p.m.; no written status report required.

*Warning: special procedures apply (see order setting initial status

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conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) UST's motion to dismiss (dkt. 65), debtor's opposition (dkt. 86), no reply is on file

There is no tentative ruling. The parties should be prepared to address whether debtor has cured all outstanding compliance issues, and whether Debtor's second corrected opposition continues to have error(s) in calculating projected cash flow. That opposition lists net income before personal expenses for "Oct-19" and "Nov-19" as -5,850.00, but then after personal expenses of \$1,751.00 for each month it lists "excess income" of \$34,900.00. Dkt.94, Ex.1, at PDF pp.8-9. If the spreadsheet is wrong about those numbers, can creditors and this Court rely on the rest of Debtor's projections?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/10/19 at 1:00 p.m.; no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/4/19:

Appearances required.

(1) Current issues

(a) Motion for authority to obtain post-petition financing (dkt. 75, 76, 77, 80, 81, 82, 83, 84) (the "Finance Motion"); Alliance Portfolio/Private Equity Finance, Inc.'s Opposition (dkt. 91)

There is no tentative ruling. It appears no reply deadline was set, so debtor's reply will be allowed orally at the hearing.

(b) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The outcome of this motion is subject to this Court's decision whether to grant or deny the Finance Motion.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

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Appearances required. The Court has reviewed the Debtor's status report (dkt. 69).

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

There is no tentative ruling. The parties should be prepared to advise this Court on whether they will agree to an adequate protection order and the proposed \$50,000 loan from Complete Business Solutions Group ("Complete") (dkt.69, p.2:21-25). The parties also should be prepared to address whether shortened time or other special procedures are requested regarding any proposed lending. See 11 U.S.C. 364; Rules 4001(c) & 9006(c)(2) (Fed. R. Bankr. P.).

(b) Contemplated contract with Majestic Ventures LLC dba VacationHomes365.com ("Consultant") re marketing (Airbnb etc.)

Debtor is contemplating a contract with Consultant for marketing services. Dkt.69, Ex.2. As that contract points out (*id.*, sec.7.2, p.44), Debtor is responsible for complying with legal obligations regarding short term rentals, and associated costs, including local taxes.

The parties should be prepared to address whether Consultant is a "professional" within the meaning of 11 U.S.C. 327; whether approval of the contract with Consultant is required under that section or section 363(b); and whether shortened time or other special procedures are requested regarding any proposed agreement with Consultant. See 11 U.S.C. 327, 363(b); Rules 2002(a)(2) & 9006(c)(2) (Fed. R. Bankr. P.).

(c) Termination of prior real estate agent

Debtor reports (dkt. 69, para.3) that the previously authorized real estate agent has agreed to cancel the listing. Is that in writing? Will Debtor need any order related to that cancellation/termination? What assurance is there that this prior agent will not seek some sort of compensation?

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/15/19 at 1:00 p.m to be heard concurrently with other matters on calendar. No written status

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report required.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/10/19:
Appearances required.

(1) Current issues

In addition to addressing the general status of this case, the following issues will be addressed.

(a) Motion of Alliance for Relief From Automatic Stay (dkt. 40)

Grant, as set forth in calendar no. 3 (9/10/19 at 1:00 p.m.).

(b) Employment Motion for The Turoci Firm (dkt. 23, 28)

Deny, as set forth in calendar no. 4 (9/10/19 at 1:00 p.m.). The parties should be prepared to address whether Debtor has arranged for alternate counsel.

(2) Deadlines/dates. This case was filed on 7/17/19.

(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by debtor herself.

(1) Current issues

(a) Airbnb

Debtor's budget motion (dkt. 37, Ex.A, p.2) reveals that, although the Sweetzer property is "listed to be sold," meanwhile "Debtor intends to rent [that property] as an Airbnb." The tentative ruling is that this is a transaction out of the ordinary course, which requires notice, an opportunity for a hearing, and approval by this Court. 11 U.S.C. 363(b). Has Debtor already acted on this intent, without such approval?

In addition, this Court is concerned about (i) whether Airbnb rental would be in compliance with any local permitting and zoning requirements and is otherwise permissible, (ii) whether that proposed use might expose the bankruptcy estate to liabilities, (iii) whether there is adequate insurance for that use of the property, and (iv) whether the proposed sale of the property is consistent with any agreement with Airbnb.

(b) Real estate agent.

The employment application (dkt. 26, p.4:1-4) states that Agent has agreed to disclose to Debtor [i.e., only to Debtor? how about disclosure to creditors, the US Trustee, and this Court?] any agency relationship Agent has with other parties ("Third Parties") that may be part of a real estate transaction for the sale of the Real Property [i.e., dual agency? that is prohibited by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov)] as well as the amount of any compensation Agent receives from Agent's relationship with any Third Parties [i.e., splitting the commission with a cooperating agent from a different real estate agency? or something else?].

What does the quoted text mean? This Court's questions are set forth in the emphasized, bracketed text above.

(2) Deadlines/dates. This case was filed on 7/17/19.

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(a) Bar date: TBD

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By
Todd L Turoci

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2:16-12679 Michael R Totaro

Chapter 11

#20.00 Cont'd Status Conference re: Post Confirmation
fr. 4/12/16, 04/26/16, 05/17/16, 8/2/16, 9/6/16, 11/8/16,
11/29/16, 1/17/17, 1/31/17, 03/21/17, 4/11/17, 06/13/17,
9/19/17, 11/14/17, 02/13/18, 7/10/18, 9/18/18, 12/18/18,
6/11/19, 10/15/19

Docket 271

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue as set forth below. Appearances are not required on 12/10/19.

(1) Current issues N/A

(2) Deadlines/dates. This case was filed on 2/17/16, and Debtor's Plan was confirmed on 6/20/17 (dkt.253).

(a) Continued status conference: 3/31/19 at 1:00 p.m. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) United States Trustee ("UST") Motion to Dismiss or Convert ("MTD," dkt. 329), Debtor's opposition (dkt. 337) and UST's reply (dkt. 338)

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Michael R Totaro

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The tentative ruling is to grant the alternative relief requested by the UST: in the event of future non-compliance, the UST is authorized to file a declaration of non-compliance and lodge a proposed order, which this Court may grant without further notice or hearing.

(b) Status conference re Debtor's motion re alleged violations of automatic stay (dkt. 328)

There is no tentative ruling, but the parties should be prepared to address the issues raised by this Court's order setting a status conference on D's motion (dkt. 334).

(2) Deadlines/dates. This case was filed on 2/17/16, and Debtor's Plan was confirmed on 6/20/17 (dkt.253).

(a) Continued status conference: 12/10/19 at 1:00 p.m. No written status report is required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Michael R Totaro

Represented By
Martina A Slocomb

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2:18-22426 Edmond Melamed

Chapter 11

Adv#: 2:19-01243 Mazakoda, Inc. v. Melamed et al

#21.00 Cont'd Status Conference re: Complaint Objecting
to Discharge
fr. 10/1/19, 11/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue to 1/28/20 at 1:00 p.m. for resolution of plaintiff's motion to dismiss this proceeding. See Joint status report adv. dkt. 14, 15. No status report is required. If this Court approves the motion to dismiss then this matter will be taken off calendar and no appearances will be required at the continued status conference. Appearances are not required on 12/10/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

Continue to 12/10/19 at 1:00 p.m. for the parties to obtain approval of their settlement. See Joint status report adv. dkt. 9; Main Case No. 2:18-bk-22426-NB, dkt. 116. The parties are directed to file a joint status report by 11/26/19. Appearances are not required on 11/5/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are

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appropriate for disposition at this hearing.

Tentative Ruling for 10/1/19:

Continue to 11/5/19 at 11:00 a.m. for the parties to finalize and obtain approval (if required) of their settlement. See Stipulation to Extend the Deadline for Defendants' Response to Plaintiff's Complaint and related Order (adv. dkt. 4, 6). The parties are directed to file a joint status report by 10/29/19. Appearances are not required on 10/1/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Defendant(s):

Edmond Melamed

Represented By
Michael Jay Berger

Rozita Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

Plaintiff(s):

Mazakoda, Inc.

Represented By
Scott E Gizer

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2:18-22426 Edmond Melamed and Rozita Melamed

Chapter 11

#22.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/27/18, 2/5/19, 2/26/19, 3/26/19, 4/9/19,
04/30/19, 06/04/19; 08/06/19, 9/24/19, 10/29/19,
11/12/19

Docket 7

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances are not required on 12/10/19.

(1) Current Issues

(a) Plan/Disclosure Statement
See below.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Procedures order: dkt. 6, timely served dkt. 14

(c) Plan/Disclosure Statement*: file by 1/31/20 using the forms required
by Judge Bason (DO NOT SERVE yet, except on the U.S.
Trustee - this Court will set a deadline and procedures at a later
time).

(d) Continued status conference: 1/28/20 at 1:00 p.m. No written
status report required.

*Warning: special procedures apply (see order setting initial status
conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 11

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

(1) Current Issues

(a) Law offices of Michael J. Berger's second interim fee application (dkt. 113, 114), no opposition is on file

Allow \$11,475 in fees and \$175 in expenses, for a total of \$11,650.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 12/10/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current Issues

(a) Settlement of Mazakoda's Inc.'s Claim

Debtors and Mazakoda have each reported a tentative settlement of their disputes (dkt.104, and adv.no. 2:19-ap-01243-NB, adv.dkt.8), and this

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status conference has been continued before in anticipation of such settlement (see dkt.106). But as of the preparation of this tentative ruling the docket does not reflect any motion to approve a settlement or other resolution. What is the status of the parties' attempted settlement, and what action should this Court take?

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 12/10/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances are not required on 9/24/19.

(1) Current Issues

(c) Settlement of Mazakoda's Inc.'s Claim

Debtors state (dkt.104) that they have engaged in settlement discussions with Mazakoda regarding its claim and are in the process of memorializing their agreement. The tentative ruling is to continue this matter to the date set forth below to allow time for the parties to finalize and obtain approval of any settlement.

(2) Deadlines/dates. This case was filed on 10/22/18.

(a) Bar date: 2/8/19 (dkt. 27, timely served dkt. 30)

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 11/26/19 at 1:00 p.m. Brief status

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report due 11/12/19.

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*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Edmond Melamed

Represented By
Michael Jay Berger

Joint Debtor(s):

Rozita Melamed

Represented By
Michael Jay Berger

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2:15-11029 R&J Limited Partnership and JRJ Limited Partnership

Chapter 11

#23.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/03/15, 03/31/15, 04/28/15, 05/26/15, 06/09/15,
07/07/15, 07/28/15, 09/01/15, 09/22/15, 11/17/15, 12/15/15,
01/19/16, 02/23/16, 03/22/16, 05/31/16, 07/19/16, 09/27/16,
11/29/16, 01/10/17, 04/25/17, 06/20/17, 10/17/17, 01/30/18,
04/10/18, 05/08/18, 06/07/18, 07/10/18, 08/07/18, 9/4/18,
10/9/18, 11/6/18, 01/08/19, 3/26/19, 05/21/19, 8/20/19, 11/26/19

Docket 9

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue to 4/7/20 at 1:00 p.m., with a *brief* status report due 3/24/19.
Appearances are not required on 12/10/19.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Reports (dkt. 378, 380, 383) and Status Report (dkt. 385). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Continue to 11/26/19 at 1:00 p.m., with a *brief* status report due 11/12/19.
Appearances are not required on 8/20/19.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Reports (dkt. 374, 376) and Status Report (dkt. 377). This Court is not aware of issues that would warrant a status conference at this

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time.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/21/19:
Appearances required.

(1) Sale motion (dkt. 352)

Grant, subject to overbids at the hearing, and also subject to any Court-approved settlement (see dkt. 364) between Debtor and Bayview Loan Servicing, LLC ("Bayview"), for the reasons set forth below.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Analysis

(a) Broker's dual representation

Debtor's motion provides that Mr. Renteria represents both the proposed buyer and the seller, the Debtor, in this transaction. Dkt. 352, at PDF p.18:2-5. The tentative ruling is that, although Judge Bason normally disapproves dual agency, that restriction will not apply to the post-confirmation reorganized Debtor.

(b) Sale free and clear

Section 363(f) provides that

The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;

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CONT...

R&J Limited Partnership and JRJ Limited Partnership

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(3) such interest is a [lien](#) and the price at which such property is to be sold is greater than the aggregate value of all [liens](#) on such property;

(4) such interest is in bona fide dispute; or

(5) such [entity](#) could be compelled, in [legal](#) or equitable proceeding, to accept a money satisfaction of such interest.

The tentative ruling is that the property may be sold free and clear of the following interests in the property:

(i) Allco Enterprises Inc. dba Allco Leasing's lien pursuant to section 363(f)(4), because its U.C.C.-2 continuation statement has expired (dkt. 352, at PDF pp. 21-22).

(ii) Bayview Loan Servicing, LLC's lien pursuant to section 363(f)(2) in view of the parties apparent settlement (dkt. 364). (Unless the settlement falls through, this Court intends to express no view on whether Bayview's interest is in bona fide dispute within the meaning of 11 U.S.C. 363(f)(4) (see dkt. 352, at PDF p.20).

(iii) Epps & Coulson, LLC's lien pursuant to section 363(f)(2) because it apparently has consented to the sale (dkt. 352, at PDF p. 20).

(iv) All other interests pursuant to section 363(f)(5), and the following analysis from the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov):

§ 363(f): Sales free and clear. Regarding § 363(f)(5), Judge Bason does not follow *Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC)*, 391 B.R. 25, 40 (B.A.P. 9th Cir. 2008). He has ruled that a sale free and clear is permissible under that statute whenever the interest at issue is subject to monetary valuation. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 290-91 (3d Cir. 2003) ("*TWA*") (because employees' claims were "subject to monetary valuation," debtor's assets could be sold free and clear of successor liability for such claims under § 363(f)(5)). Alternatively, Judge Bason has ruled that "cramdown" is among the types of legal or equitable proceeding within the statute, or that *Clear Channel* is distinguishable in most cases under the rationale of *In re Jolan*, 403 B.R. 866 (Bankr. W.D. Wash. 2009), because holders of interests can be compelled in numerous other types of legal or equitable proceedings to accept a money

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satisfaction (which might be \$-0- in the case of an interest that is entirely underwater). Those proceedings include a hypothetical foreclosure by one of the lienholders, or a receivership (which could be initiated at the behest of creditors or by the debtor itself). See Cal. Code Civ. Proc. ("CCP") § 564(b)(9) (power to appoint receiver to sell property); CCP § 568.5 (receiver empowered to sell property as provided in CCP §§701.510 et seq.); CCP § 701.630 (extinguishment of liens); CCP § 701.680 (binding effect of sale). The judge respectfully disagrees with *In re Hassen Imports P'ship*, 502 B.R. 851, 860 et seq. (C.D. Cal. 2013) (hypothetical foreclosure sale did not qualify under section 363(f)(5)).

(2) Status conference

The tentative ruling is to continue this post-confirmation status conference to 8/20/19 at 1:00 p.m., with no written status report required. This Court anticipates that it will issue a tentative ruling, shortly prior to that time, further continuing the status conference if there is no activity on the docket that appears to warrant a status conference at that time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue to 5/21/19 at 1:00 p.m., with no status report required, in view of the latest status report (dkt. 346) and notice of sale (dkt. 347). Appearances are not required on 3/26/19.

This Court has reviewed the Debtor's latest filed documents, including its Monthly Operating Reports (dkt. 343, 345) and Status Report (dkt. 346). This Court is not aware of issues that would warrant a status conference at this time.

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

R&J Limited Partnership

Represented By

Vanessa M Haberbush

David R Haberbush

JRJ Limited Partnership

Represented By

Vanessa M Haberbush

David R Haberbush

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2:17-23714 Fargo Trucking Company, Inc.

Chapter 11

#24.00 Cont'd status Conference re: Post Confirmation
fr. 12/5/17, 02/13/18, 03/06/18, 5/1/18, 5/22/18,
5/29/18, 08/07/18, 9/21/18, 10/9/18, 12/4/18,
3/26/19, 7/30/19

Docket 1

***** VACATED *** REASON: Final Decree entered 11/18/19**

Tentative Ruling:

Party Information

Debtor(s):

Fargo Trucking Company, Inc.

Represented By

Vanessa M Haberbush

David R Haberbush

Lane K Bogard

Trustee(s):

Timothy J. Yoo

Pro Se

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2:19-22321 Timeshare Relief, Inc.

Chapter 7

#1.00 Hrg re: Motion of Wyndham Vacation Resorts,
Inc. to dismiss bankruptcy case

Docket 8

***** VACATED *** REASON: Cont'd to 12/17/19 at 2:00 p.m. [Dkt. 17]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

TIMESHARE RELIEF, INC.

Represented By
William H Brownstein

Trustee(s):

Wesley H Avery (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

#2.00 Hrg re: Motion to substantively consolidate debtor
Attitude Marketing, Inc. with nondebtor Aston Business
Solutions, Inc.

Docket 422

*** VACATED *** REASON: Rescheduled to 12/17/19 at 2:00 p.m. [ruling
on 11/12/19]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:00 PM

2:16-21559 David MacMillan

Chapter 7

Adv#: 2:19-01156 Gonzalez v. Karen et al

#3.00 Cont'd Status Conference re: Complaint to Avoid and Recover
Preferential Transfer [11 U.S.C. sections 547(b), 550, 551]
fr. 7/30/19, 9/24/19, 10/29/19

Docket 1

*** VACATED *** REASON: Cont'd to 1/14/20 at 11:00 a.m. [dkt. 24]

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David M. Karen

Represented By
Keith S Dobbins

DK Law Group, LLP

Represented By
Keith S Dobbins

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:18-12429 Dana Hollister

Chapter 11

Adv#: 2:18-01203 The Bird Nest, LLC et al v. Hollister

#4.00 Cont'd Status Conference re: Complaint to
Determine Non-Dischargeability of Debt
fr. 8/14/18, 12/18/18, 6/4/19, 11/26/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue to 6/16/20 at 2:00 p.m. because this adversary proceeding is still stayed as set forth in the tentative ruling for 6/4/19 (reproduced below).
Appearances are not required on 12/10/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Continue to 11/5/19 at 2:00 p.m. because, as set forth in the parties' stipulation (adv. dkt. 8) (approved by order at adv. dkt. 9), this adversary proceeding is stayed pursuant to the parties' settlement that is still being implemented in the bankruptcy case. Appearances are not required on 6/4/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Dana Hollister

Chapter 11

Tentative Ruling for 12/18/18:

Continue to 6/4/19 at 2:00 p.m. because, as set forth in the parties' stipulation (adv. dkt. 8) (approved by order at adv. dkt. 9), this adversary proceeding is stayed pursuant to the parties' settlement that is still being implemented in the bankruptcy case. Appearances are not required on 12/18/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Dana Hollister

Represented By
David A Tilem

Defendant(s):

Dana Hollister

Pro Se

Plaintiff(s):

The Bird Nest, LLC

Represented By
Howard Steinberg

Roman Catholic Archbishop of Los

Represented By
Howard Steinberg

The California Institute of the Sisters

Represented By
Howard Steinberg

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2:00 PM

2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#5.00 Hrg re: Application for Payment of: Final Fees and/or Expenses (11 U.S.C. § 330) of Zolkin Talerico LLP

Docket 149

Tentative Ruling:

Please see the tentative ruling for the case status conference (calendar no. 7, 12/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan
David B Zolkin

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#6.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 5/7/19, 05/21/19, 6/18/19, 7/30/19, 8/20/19, 9/17/19,
10/15/19, 10/29/19

Docket 76

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see the tentative ruling for the status conference (calendar no. 7,
12/10/19 at 2:00 p.m.)

Tentative Ruling for 10/29/19:

Please see the tentative ruling for the status conference (calendar no. 8,
10/29/19 at 2:00 p.m.)

Tentative Ruling for 10/15/19:

Please see the tentative ruling for the status conference (calendar no. 11,
10/15/19 at 2:00 p.m.)

Tentative Ruling for 9/17/19:

Please see the tentative ruling for the status conference (calendar no. 4,
9/17/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the status conference (calendar no. 7,
8/20/19 at 2:00 p.m.)

Tentative Ruling for 7/30/19:

Please see the tentative ruling for the status conference (calendar no. 5,
7/30/19 at 2:00 p.m.)

Tentative Ruling for 6/18/19:

Please see the tentative ruling for the status conference (calendar no. 5,
6/18/19 at 2:00 p.m.)

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CONT... Jackies Cookie Connection LLC

Chapter 11

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the status conference (calendar no. 6, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 5/7/19:

Please see the tentative ruling for the status conference (calendar no. 2.1, 5/7/19 at 2:00 p.m.)

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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2:18-24571 Jackies Cookie Connection LLC

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/08/19, 1/15/19, 1/29/19, 2/26/19, 3/26/19;
04/30/2019, 5/7/19, 05/21/19, 6/18/19, 7/30/19,
8/20/19, 9/17/19, 10/15/19, 10/29/19

Docket 5

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances are not required on 12/10/19.

(1) Current issues

(a) Debtor's counsel final fee application (dkt. 149)

Allow Zolkin Talerico LLP \$153,269.00 in fees and \$2,009.07 in expenses, for a total of \$155,278.07. The tentative ruling is to authorize payment of those dollar amounts pro rata with other administrative claimants from Debtor's remaining cash - *i.e.*, in accordance with the Bankruptcy Code's priority scheme - pursuant to the procedures set forth below.

(b) Motion of the United States Trustee ("UST") to convert, dismiss, or appoint a Chapter 11 trustee (the "UST Motion", dkt. 76)

The tentative ruling is to authorize a structured dismissal of this case, contingent on distribution of all remaining assets (funds) in accordance with the distribution priorities of the Bankruptcy Code. In furtherance of such a distribution, the tentative ruling is to set a deadline of 12/31/19 for Debtor to file and serve a notice of its proposed distributions and any other proposed terms for a structured dismissal, and set a deadline of 14 days after service via US mail for any objections (*i.e.*, 11 days plus 3 additional days for service via US mail per Rule 9006, Fed. R. Bankr. P., so that if Debtor wishes this matter can be noticed on a "negative notice" basis and possibly concluded before the end of the calendar year). Absent any objections, the tentative ruling is that Debtor could file a declaration of no response and lodge a proposed order granting the UST's motion on the terms proposed by Debtor.

(2) Deadlines/dates. This case was filed on 12/17/18.

(a) Bar date: 7/24/19 (not timely served but excused, dkt. 120)

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CONT...

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Chapter 11

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: if this case is not dismissed by then, or a continued status conference is not otherwise mooted, set a continued status conference for 1/28/20 at 2:00 p.m., with no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[Prior Tentative Rulings omitted]

Party Information

Debtor(s):

Jackies Cookie Connection LLC

Represented By
Derrick Talerico
Marlee E Sherman
Michael S Kogan

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2:18-24302 GL Master Inc

Chapter 7

#8.00 Hrg re: Motion for Order Re: Objection to Amended
Proof of Claim No. 1-2
[Filed by Claimant Dong, Wang & Hu]

Docket 46

Tentative Ruling:

Deny/overrule the claim objection, without prejudice. Appearances are not required.

Proposed order: The claimants are directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Creditor (and sometime attorney for Debtor) Lynn Chao, APC ("Chao") objects that creditors have provided no "written proof (i.e. pay stubs, employment contracts)" that they were ever employed by Debtor, despite long-pending litigation in State court. Dkt.46, p.3:9-10 (emphasis added), *and* see dkt.60, p.4. The tentative ruling is that this allegation is irrelevant because Chao has not cited any authority that a claim in bankruptcy must be founded on written documents.

To the extent that Chao is objecting that claimants' State Court complaint does not name Debtor, that also appears to be irrelevant. Claimants' proof of claim names Debtor. Claimants' opposition papers (dkt.56) explain that they (allegedly) were hired/retained by Debtor dba Little Sheep International, Inc. ("Sheep") (and that allegation may be supported by Debtor's own papers, see dkt. 1, p. 1). Alternatively, claimants' opposition papers assert that they have a claim against Debtor as the successor in interest to Sheep (and, again, that allegation appears to be supported by Debtor's own papers, see dkt. 61, p.1:22-23). The tentative ruling is that this Court cannot presume, just because claimants' State Court complaint does not expressly list Debtor's (current) name in the caption, that the proof of claim that names Debtor is directed at the wrong entity.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz

Pro Se

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2:18-24302 GL Master Inc

Chapter 7

#9.00 Hrg re: Motion for Order to Show Cause re: Civil Contempt
Against the Law Offices of Lynn Chao, A.P.C. and GL Masters, Inc.
and for Sanctions

Docket 38

Tentative Ruling:

Appearances required. The tentative ruling is to grant the motion and award compensatory sanctions (dkt.38), for the reasons set forth therein and in creditors' reply (dkt.55) to the only opposition papers - the declaration of Lynn Chao (dkt.42). See also dkt.33, 40 (Order compelling production), dkt.43 (Order to Show Cause). The tentative ruling is also to grant the motion and award coercive sanctions, in an escalating dollar amount to be addressed at the hearing. The tentative ruling is to deny any request for an order directing Google to do anything, for lack of sufficient notice and cited authority/analysis. The tentative ruling is also to continue the motion to a future date (to be determined), which will provide an opportunity (a) to monitor future compliance/non-compliance, (b) to impose additional coercive sanctions or terminate those sanctions as appropriate, and (c) address any other appropriate relief.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

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Trustee(s):

Edward M Wolkowitz

Pro Se

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2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#10.00 Cont'd hrg re: Application to Employ Danning, Gill, Diamond & Kollitz, LLP as General Bankruptcy Counsel
fr. 11/5/19

Docket 27

Tentative Ruling:

Tentative Ruling for 12/10/19:

Please see tentative ruling for status conference (calendar no. 11, 12/10/19 at 2:00 p.m.).

Tentative Ruling for 11/5/19:

Please see tentative ruling for status conference (calendar no. 2, 11/5/19 at 1:00 p.m.).

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford

**United States Bankruptcy Court
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2:19-20000 9469 BEVERLY CREST LLC

Chapter 11

#11.00 Cont'd status conference re: Chapter 11 case
fr. 9/24/19, 11/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Appearances are not required on 12/10/19.

(1) Current issues

(a) Application to employ Danning Gill Diamond & Kollitz, LLP (the "Firm") (dkt. 27); Statement of disinterestedness (dkt. 28); Supplemental declaration (dkt. 32); Order setting hearing on application (dkt. 44) (the "Order Setting Hearing"); 2d Supp. (dkt.58); 3d Supp. (dkt. 66)

Grant Application, but disapprove paragraph 10 of the attorney-client agreement as against the bankruptcy estate (see dkt. 27, Ex. 1).

Proposed order: The Firm is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (dkt. 29; timely served, dkt. 31).

(b) Procedures order: dkt. 11 (timely served, dkt. 24)

(c) Plan/Disclosure Statement*: file by 1/3/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 1/28/20 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

Appearances required by proposed counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion for authority to obtain post-petition financing (dkt. 35, 36, 37) (the "Finance Motion"); NVSI, Inc.'s opposition & evidentiary objections (dkt. 46, 47), Debtor's reply (dkt. 53-57)

Grant, on the terms set forth in the reply (dkt.53). Overrule the evidentiary objections of NVSI (dkt.47) to the Livingston decl. (dkt.35, pp.30-35), except to the limited extent set forth below. Specifically, overrule entirely (except as limitations conceded in Debtor's Response) the evidentiary objections to the following para./exhibits to the Livingston decl.:

7, 10, 14, 15, 18, 20, 22 & Ex.6, 25, 29, 30, 31 & Ex.3, 35, 36. 37;
and overrule the objections to the following paragraphs except as noted:

* 27, except as to what Mr. Livingston believes NVSI would agree to;

* 33, except as provided in Debtor's response (dkt.57, p.13:11-20);
and

* 17 & 23 (the testimony regarding settlement negotiations), as to which the tentative ruling is to admit it for the limited purposes set forth in the Response - rebuttal of NVSI's allegations as to Debtor's motives (see dkt.57,pp.6:17-27 & 9:8-19) - to the extent, if any, that such allegations are relevant.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

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CONT... 9469 BEVERLY CREST LLC

Chapter 11

(b) Application to employ Danning Gill Diamond & Kollitz, LLP (the "Firm") (dkt. 27); Statement of disinterestedness (dkt. 28); Supplemental declaration (dkt. 32); Order setting hearing on application (dkt. 44) (the "Order Setting Hearing"); 2d Supp. (dkt.58)

Continue to the same date and time as the continued status conference (see below), per the Firm's second supplement (dkt.58).

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (dkt. 29; timely served, dkt. 31).

(b) Procedures order: dkt. 11 (timely served, dkt. 24)

(c) Plan/Disclosure Statement*: file by 1/3/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 11/12/19 at 1:00 p.m., concurrent with other matters in this case. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Budget motion

Debtor's status report states that it has not filed a budget motion because it is not required by the presiding judge's procedures. Dkt. 23, p.3.

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CONT... 9469 BEVERLY CREST LLC

Chapter 11

Judge Bason's posted procedures (available at cacb.uscourts.gov) Section VII.G provide that budget motions are mandatory in all chapter 11 cases. The tentative ruling is to set a deadline of 9/30/19 to file and serve a budget motion.

(b) Settlement Discussions

The Debtor should be prepared to provide this Court with an update on the status of any settlement discussions with the existing lienholder.

(2) Deadlines/dates. This case was filed on 8/26/19.

(a) Bar date: 11/25/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 1/3/20 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/12/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

9469 BEVERLY CREST LLC

Represented By
John N Tedford

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2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continue this status conference as set forth below. Appearances are not required on 12/10/19.

(1) Current issues

This Court has reviewed the parties latest filed documents and is not aware of any issues that warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/17/19 at 1:00 p.m. to be concurrent with other scheduled matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

Continue this status conference as set forth below. Appearances are not

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CONT... **Schaefer Ambulance Service, Inc**
required on 11/5/19.

Chapter 11

(1) Current issues

This Court has reviewed the parties latest filed documents and is not aware of any issues that warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/10/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

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2:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

Adv#: 2:19-01149 Cathay Bank, a California banking corporation v. Schaefer Ambulance

#13.00 Cont'd status conference re: Removal
fr. 7/2/19; 08/06/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/10/19:

Continued as set forth below. Appearances are not required on 12/10/19.

Preliminary issues

This Court has reviewed the parties' joint status report (adv. dkt. 47) and the other filed documents in this adversary proceeding, and is not aware of any issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket numbers 8, 9, 17, 38, 40 and at the hearing on 9/10/19).

(2) Mediation. [Intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since 5/21/19.

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 2/25/20.

Continued status conference: 3/10/20 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD
(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial

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CONT... Schaefer Ambulance Service, Inc
Practice")
Trial commencement: TBD

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required. This Court has reviewed the parties' joint status report (dkt. 38 & 40) and the other filed documents and records in this adversary proceeding.

Preliminary issues

(a) McNeal Defendants' Motion to Quash Cathay Bank's Subpoenas, or in the alternative, for a protective order (adv. dkt. 35) (the "Motion to Quash"), Cathay Bank's opposition (adv. dkt. 37), McNeal Defendants' reply (adv. dkt. 39)

The tentative ruling is to deny the Motion to Quash for the reasons set forth in Cathay Bank's opposition (adv. dkt. 37).

Proposed order: Cathay Bank is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Motion for TRO etc. (adv.dkt.10, 18, 19, 21, 32, 33)

This matter was continued to this hearing date, but it does not appear that there are any remaining issues to address at this time. Accordingly the tentative ruling is to take this matter off calendar, without prejudice to re-noticing it to be heard at the same time as any future status conference in this adversary proceeding or the bankruptcy case. The tentative ruling is also to authorize Debtor to self-calendar this motion at 2:00 p.m., after notifying the Courtroom Deputy of Judge Bason of this authorization to do so, and to memorialize the provisions of this paragraph in a written order.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

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CONT... Schaefer Ambulance Service, Inc

Chapter 11

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket numbers 8, 9, 17, 38, 40 and at the hearing on 9/10/19).

(2) Mediation. [Intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since 5/21/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: 11/26/19.

Continued status conference: 12/10/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/6/19:

[OMITTED (see adv.dkt.31, 33)]

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CONT... Schaefer Ambulance Service, Inc

Chapter 11

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

Defendant(s):

Schaefer Ambulance Service, Inc, a

Represented By
Montserrat Morales
Craig G Margulies

Louella M McNeal

Represented By
Frances M O'Meara

Samir Yanni

Represented By
Michael J Khouri

Leslie M. McNeal

Represented By
Frances M O'Meara

Marlene L. McNeal

Represented By
Frances M O'Meara

James McNeal III

Represented By
Frances M O'Meara

Plaintiff(s):

Cathay Bank, a California banking

Represented By
Michael G Fletcher
Reed S Waddell
Gerrick Warrington

**United States Bankruptcy Court
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2:00 PM

2:13-26483 Saeed Cohen

Chapter 11

Adv#: 2:16-01046 Cohen v. Cohen

#14.00 Cont'd hrg re: Motion to reopen adversary proceeding
to hear motion on release monies or rents payable
to Fariba Cohen
fr. 10/15/19, 11/5/19

Docket 170

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 15,
12/10/19 at 2:00 p.m.)

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young

Defendant(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Beth Ann R Young

Movant(s):

Fariba Cohen

Represented By
Alan W Forsley
Susan K Sefflin
Kevin J Leichter
Michael H Weiss

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CONT... Saeed Cohen

Chapter 11

Plaintiff(s):

Fariba Cohen

Represented By

Alan W Forsley

Susan K Seflin

Kevin J Leichter

Michael H Weiss

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2:13-26483 Saeed Cohen

Chapter 11

#15.00 Cont'd Status Conference re: Post Confirmation
fr. 5/23/17, 8/8/17, 9/12/17, 12/12/17, 1/9/18,
4/10/18, 4/17/18, 07/17/18, 11/20/18, 12/11/18,
03/12/19, 3/26/19; 08/06/19, 11/5/19

Docket 0

Tentative Ruling:

Appearances required.

Current issues

(1) Ms. Cohen's motion to reopen and release rents (2:16-ap-01046-NB, adv. dkt. 170, 173), Mr. Cohen's opposition (adv. dkt. 180) and Ms. Cohen's reply (adv. dkt. 182), and related order (adv.dkt.147)

Grant in part and continue in part as set forth below.

(a) Request to reopen

Grant.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) Request for release of rents

There is no tentative ruling the parties should be prepared to address the issues raised by the motion, opposition, and reply.

(2) Status conference

Continue this status conference to 3/10/20 at 2:00 p.m., with a *brief* status report due 2/25/19 based on Debtor's status report (dkt. 1529)

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[Prior Tentative Rulings omitted]

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CONT... Saeed Cohen

Chapter 11

Party Information

Debtor(s):

Saeed Cohen

Represented By

Ron Bender

Krikor J Meshefejian

Kurt Ramlo

Beth Ann R Young

**United States Bankruptcy Court
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Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:15-28488 Bernardo Manzano Reyes

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 46

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bernardo Manzano Reyes

Represented By
Thomas B Ure

Movant(s):

U.S. Bank National Association, as

Represented By
Merdaud Jafarnia
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:19-23832 Adela Delgado

Chapter 13

#1.10 Hrg re: Motion for relief from stay [RP]

B. SAUL JACOBS
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant in part, deny in part, as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State

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10:00 AM

CONT...

Adela Delgado

Chapter 13

laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. Based on the record, it appears that this is a "hijacked" case, and that Debtor is innocent of any involvement. See *e.g.*, *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). In a hijacking case, the Debtor faces the legitimate concern of being subject to a 180-day bar and other adverse consequences if, for example, Debtor later requests and obtains a voluntary dismissal and subsequently needs to file another bankruptcy petition. See, *e.g.*, 11 U.S.C. 109(g)(2), 362(b)(21)(A). There is authority that section 109 "eligibility issues" are nonjurisdictional, can be waived, forfeited, or subject to estoppel, and should not be applied if that would produce an "illogical, unjust, or capricious result, or when the benefit of dismissal would inure to a bad faith creditor." *In re Leaffy*, 489 B.R. 545, 550-51 (9th Cir. Bap 2012) (citing cases including under 109(g)(2)). See also *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270. The same principles apply to any other adverse consequences from a hijacking. Accordingly, the tentative ruling is to condition the relief from the automatic stay granted in this tentative ruling such that no adverse consequences apply to Debtor from the hijacking, including under 11 U.S.C. 109(g)(2) or 362(b)(21)(A). Note: None of the foregoing will shield Debtor if it turns out that Debtor was not, in fact, innocent of any involvement in the

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CONT... Adela Delgado

Chapter 13

apparent hijacking or other abusive scheme.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Adela Delgado

Pro Se

Movant(s):

B. Saul Jacobs

Represented By
Jeffrey J Hagen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:17-18460 Loretta Donner

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA, NA
vs
DEBTOR

Docket 38

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 40).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Loretta Donner

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Bank of America, N.A.

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:18-18131 Alexander Dela Cruz Del Rosario and Marie Chita-Linda

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

SELECT PORTFOLIO SERVICING, INC.
VS
DEBTOR

Docket 69

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 72).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alexander Dela Cruz Del Rosario

Represented By
Sevan Gorginian

Joint Debtor(s):

Marie Chita-Linda Vergara Del

Represented By
Sevan Gorginian

Movant(s):

Select Portfolio Servicing, Inc. as

Represented By
Josephine E Salmon

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CONT... Alexander Dela Cruz Del Rosario and Marie Chita-Linda

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:18-23950 Andres Ibarra

Chapter 13

#4.00 Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC
vs
DEBTOR

Docket 37

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andres Ibarra

Represented By
Nima S Vokshori

Movant(s):

Nationstar Mortgage LLC D/B/A

Represented By
Dane W Exnowski

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-11833 Jennifer Johanna Haas

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

JPMORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 54

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 56).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jennifer Johanna Haas

Represented By
Caroline S Kim

Movant(s):

JPMorgan Chase Bank, National

Represented By
Megan E Lees
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-12069 Gladys Smith

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

JPMORGAN CHASE BANK, NATIONAL ASSOC
vs
DEBTOR

Docket 55

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Gladys Smith

Chapter 13

Party Information

Debtor(s):

Gladys Smith

Represented By
Evelyn R Gillespie

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-15831 Kenny Prieto and Viviana Prieto

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NA
vs
DEBTOR

Docket 34

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Kenny Prieto and Viviana Prieto

Chapter 13

Party Information

Debtor(s):

Kenny Prieto

Represented By
A Mina Tran

Joint Debtor(s):

Viviana Prieto

Represented By
A Mina Tran

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-16039 Jennifer Anne Sison Mariano

Chapter 13

#8.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Jennifer Anne Sison Mariano

Chapter 13

Party Information

Debtor(s):

Jennifer Anne Sison Mariano

Represented By
Stephen S Smyth
William J Smyth

Movant(s):

Toyota Motor Credit Corporation

Represented By
Austin P Nagel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-22869 **Julio C Mendez and Rosa J Mendez**

Chapter 13

#9.00 Hrg re: Motion for relief from stay [PP]

DAIMLER TRUST
vs
DEBTOR

Docket 16

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Julio C Mendez and Rosa J Mendez

Chapter 13

Party Information

Debtor(s):

Julio C Mendez

Represented By
D Justin Harelik

Joint Debtor(s):

Rosa J Mendez

Represented By
D Justin Harelik

Movant(s):

Daimler Trust

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-23839 Carolyn Ann Kick

Chapter 13

#10.00 Hrg re: Motion for relief from stay [UD]

PAMELA RAMPICK
vs
DEBTOR

Docket 12

Tentative Ruling:

Grant as provided below, subject to any opposition at the hearing.
Appearances required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Carolyn Ann Kick

Chapter 13

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carolyn Ann Kick

Pro Se

Movant(s):

Pamela Rampick

Represented By
William E Windham

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-23552 Arturo Zurita

Chapter 13

#11.00 Hrg re: Motion for relief from stay [UD]

AMERICAN BEAUTY MEADOWS OWNERS ASSOC
vs
DEBTOR

Docket 20

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Arturo Zurita

Chapter 13

Party Information

Debtor(s):

Arturo Zurita

Represented By
Rebecca Tomilowitz

Movant(s):

American Beauty Meadows Owners

Represented By
Neil B Katz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-23768 Christopher Darnell Bronson

Chapter 13

#12.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 15

Tentative Ruling:

Grant, subject to the following conditions. Appearances are not required.

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Christopher Darnell Bronson Chapter 13

are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christopher Darnell Bronson

Represented By
Matthew D. Resnik

Movant(s):

Christopher Darnell Bronson

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:18-24615 Maricela Correa Contreras

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/29/19

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 33

Tentative Ruling:

Tentative Ruling for 12/17/19 (same as for 10/29/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maricela Correa Contreras

Represented By
Sunita N Sood

Movant(s):

JPMorgan Chase Bank, National

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Maricela Correa Contreras

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-22976 Jennifer Mendez

Chapter 13

#14.00 ***[CASE DISMISSED ON 12/5/19]***

Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/10/19

ROBERT SOMERS
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant in part and deny in part as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition and the actions that Movant describes in the moving papers do not appear to warrant annulment.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Jennifer Mendez

Chapter 13

Relief notwithstanding future bankruptcy cases.

Deny, without prejudice to any other types of relief granted herein (or previously granted), for the following reasons.

The motion requests requests "in rem" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request for lack of good cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jennifer Mendez	Pro Se
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Movant(s):

Robert Somers	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:16-21984 Jose Santana Figueroa Damian

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/24/19, 10/29/19

NATIONSTAR MORTGAGE LLC
vs
DEBTOR

Docket 56

Tentative Ruling:

Tentative Ruling for 12/17/19 (same as for 10/29/19, 9/24/19):

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 58).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Santana Figueroa Damian

Represented By
Onyinye N Anyama

Movant(s):

Nationstar Mortgage LLC as

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Jose Santana Figueroa Damian

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-20944 Maynor Martinez

Chapter 13

#16.00 **[CASE DISMISSED ON 10/4/19]**

Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/10/19

WELLS FARGO BANK, NA.
vs
DEBTOR

Docket 18

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

This matter was continued to this date due to some confusion on both Debtor's and this Court's part, in which Debtor appeared for a different matter on the 12/10/19 calendar instead of the hearing on Wells Fargo's R/S Motion (see dkt. 22). The tentative ruling is to grant the remainder of the the relief requested in the motion (as set forth in the tentative ruling for 12/10/19 below).

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Maynor Martinez

Chapter 13

Tentative Ruling for 12/10/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, this court grants relief from the automatic stay as follows.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2) and (d)(4).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

Relief notwithstanding future bankruptcy cases.

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue,

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT...

Maynor Martinez

Chapter 13

then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per Judge Bason's posted procedures (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Maynor Martinez

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Maynor Martinez

Chapter 13

Movant(s):

Wells Fargo Bank, N.A., as trustee,

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-10184 Raul Reynoso, Jr.

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/10/19

HSBC Bank USA, N.A.
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required. There is no tentative ruling. This matter was continued because Debtor made a substantial payment to Movant, which this Court found provided temporary adequate protection and which suggests that Debtor is seeking to enter into an adequate protection order. The parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/10/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT...

Raul Reynoso, Jr.

Chapter 13

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Raul Reynoso Jr.

Represented By
Stuart R Simone

Movant(s):

HSBC Bank USA, N.A.

Represented By
Eric P Enciso
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-23664 Liat Talasazan

Chapter 13

#18.00 Hrg re: Motion for relief from stay [RP]

MICHAEL TREMBLAY, TRUSTEE
vs
DEBTOR

Docket 9

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 11). In addition the tentative ruling is that if this Court grants any relief to Movant, it will grant parallel relief to junior creditors, including creditor Celtic Bank Corporation (see dkt. 40) and alleged secured creditor Oxygen Funding, Inc., to exercise whatever remedies they may or may not have under applicable nonbankruptcy law.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Liat Talasazan

Pro Se

Movant(s):

Michael Tremblay, Trustee

Represented By
David I Brownstein

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Liat Talasazan

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-23664 Liat Talasazan

Chapter 13

#19.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 23

Tentative Ruling:

Grant, subject to the following conditions, and also subject to any opposition at the hearing. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Key documents reviewed (other than the motion papers): Debtor's motion to convert case to chapter 11 (dkt. 24); declaration of Omar Amaya (dkt. 25); Debtor's declaration (dkt. 26); declaration of Giovanni Orantes (dkt. 27)

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse,

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Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT...

Liat Talasazan

Chapter 13

this Court provides the foregoing simple process for reconsideration.

(3) Caution to Debtor. Filing this case and her prior bankruptcy case under chapter 13 when she was ineligible to be a debtor under that chapter has caused delays and expense to creditors, and these things may, in future, be among the facts and circumstances that this Court may consider if any party in interest asserts a lack of proper prosecution of this case, or other grounds for conversion, dismissal, dismissal with a bar, or other relief.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-23664 Liat Talasazan

Chapter 13

#20.00 Hrg re: Debtor's Motion to Convert Case From Chapter 13 to 11

Docket 24

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The tentative ruling is as stated in the order setting this hearing on shortened time (dkt. 33):

Debtor has erroneously used forms for conversion of a chapter 7 or 11 case, but this Court presumes (without prejudice to any party's arguments) that conversion is being sought, on shortened time, under 11 U.S.C. 1307(d) (and Rules 1017(f), 2002(m), 9006(c), 9007, and 9014 (Fed. R. Bankr. P.)). The tentative ruling, subject to any opposition and reply at or before the hearing, is to grant the motion and convert this case to chapter 11, with a caution to Debtor that filing this case and her prior bankruptcy case under chapter 13 when she was ineligible to be a debtor under that chapter has caused delays and expense to creditors, and these things may, in future, be among the facts and circumstances that this Court may consider if any part in interest asserts a lack of proper prosecution of this case, or other grounds for conversion, dismissal, dismissal with a bar, or other relief.

In addition, the tentative ruling is to set a status conference in the chapter 11 case for 1/28/20 at 1:00 p.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Liat Talasazan

Chapter 13

Party Information

Debtor(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Movant(s):

Liat Talasazan

Represented By
Giovanni Orantes
Luis A Solorzano

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:19-20139 Antoinette M Brooks

Chapter 13

#21.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/10/19

21st MORTGAGE CORPORATION
VS
DEBTOR

Docket 19

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required. At the 12/10/19 hearing, this court ordered a short continuance of this matter for the parties to consider an adequate protection stipulation. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/10/19:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... **Antoinette M Brooks** **Chapter 13**
present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Antoinette M Brooks

Represented By
Brandon J Anand

Movant(s):

21ST MORTGAGE

Represented By
Diane Weifenbach

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

2:18-12716 Peta Elizabeth Gorshel

Chapter 7

#22.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/20/19

DLJ MORTGAGE CAPITAL, INC.
vs
DEBTOR

Docket 141

Tentative Ruling:

Tentative Ruling for 12/17/19:

Continue to 1/7/20 at 11:00 a.m. concurrent with the hearing on the Trustee's motion to sell the Tigertail Property (see dkt. 164, 165, 166, 167).

Appearances are not required on 12/17/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

[Omitted: see dkt. 159]

Party Information

Debtor(s):

Peta Elizabeth Gorshel

Represented By
David S Hagen
Christian T Kim

Movant(s):

DLJ Mortgage Capital, Inc.

Represented By
Kelly M Raftery

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

10:00 AM

CONT... Peta Elizabeth Gorshel

Chapter 7

Merdaud Jafarnia

Trustee(s):

Carolyn A Dye (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

11:00 AM

2:19-13817 Carlos Alberto Ramirez

Chapter 7

#1.00 Hrg re: Motion to Vacate Discharge

Docket 23

Tentative Ruling:

Deny. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Reasons for denial

Debtor's motion requests that this Court exercise its equitable powers under 11 U.S.C. 105(a) to vacate Debtor's chapter 7 discharge, because a reaffirmation agreement must be "made before the granting of the discharge" (11 U.S.C. 524(c)(1), emphasis added) but apparently in this case the agreement was not made or filed before that date. This Court lacks the power to grant that relief.

As explained by the Bankruptcy Appellate Panel for the Ninth Circuit, "the bankruptcy court lacks the equitable power under [section] 105(a) to revoke a discharge on request of the debtor." *In re Hugger*, 2019 WL 1594017, *3 (9th Cir. BAP 2019) (citing *In re Markovich*, 207 B.R. 909, 912-13 (9th Cir. BAP 1997)). Debtor has not cited any case law to the contrary.

(2) Whether to deny the motion with or without leave to amend

The tentative ruling is to deny the motion without leave to amend. This Court recognizes that the same case on which this Court is relying to deny relief (*Hugger*) also states that relief might be available using a different pathway. Specifically, under *Hugger* it is theoretically possible that the motion could be amended to assert that this case presents one of those rare circumstances in which relief would be available under Rule 60(b) (Fed. R. Civ. P.) (incorporated by Rule 9024, Fed. R. Bankr. P.).

But the tentative ruling is that, on the facts alleged, Debtor cannot meet the exceptionally tough standards for such relief. See *Hugger*, 2019

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11:00 AM

CONT... Carlos Alberto Ramirez

Chapter 7

WL 1594017, at *3-5, and *In re Estrada*, 568 B.R. 533 (Bankr. C.D. Cal. 2017). For example, it is not clear that Debtor can legitimately allege even negligence by his counsel, let alone the "gross negligence" that appears to be the least onerous standard applied by the courts to grant relief under Rule 60(b)(1). See *Estrada*, 568 B.R. 533. Nor does it appear that Debtor can meet even the most basic element of Rule 60(b)(6), which is that the relief would be appropriate to "accomplish justice." See *Estrada*, 568 B.R. 533, 541 and passim (quoting authorities).

On that last issue (accomplishing justice), this Court recognizes that, if the motion is denied without leave to amend, Debtor might lose his house. That is an awful outcome (assuming that Debtor cannot rent sufficient accommodations). But on the record presented, reaffirming the mortgage debt appears very likely to place Debtor in an even worse situation.

If the discharge were vacated and the proposed reaffirmation were to become effective,

- (i) Debtor would be saddled with a huge mortgage debt;
- (ii) such debt would exceed the value of Debtor's property (see bankruptcy Schedule D, dkt.1 at PDF p.19) (there is no evidence that Debtor's mortgage lender has agreed to reduce the debt to the property's value, and make other concessions);
- (iii) Debtor appears almost certain to default on the mortgage payments: his only hope is to substantially increase his income and/or decrease his expenses - because of his historically minimal gross income and negative net income (bankruptcy Schedules I&J, dkt.1 at PDF pp.29-32), his three dependents, and his other financial circumstances (*id.*) - and even if Debtor theoretically could generate enough net income to pay his mortgage, he could not afford any significant medical expenses for either himself or any dependent at any future time, nor could he afford any substantial car repair expenses, or more than minimal other expenses or disruptions to income; and
- (iv) Debtor's personal liability typically could not be discharged for seven to nine years (see 1328(f) (no discharge of debts if future chapter 13 case is filed within four years after this case was filed) and 1325(b)(4) (additional 3 to 5 year commitment period), and see also 11 U.S.C. 727(a)(8), 1129(a)(15)(B), and 1141(a)(5)(A)).

In other words, if this Court were to grant Debtor's motion, it appears Debtor would both lose his home and be stuck with a huge debt that he

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Los Angeles
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Tuesday, December 17, 2019

Hearing Room 1545

11:00 AM

CONT... **Carlos Alberto Ramirez**

Chapter 7

cannot discharge for seven to nine years. Again, that means Debtor cannot meet even the most basic element of Rule 60(b)(6), which is that the relief would be appropriate to accomplish justice. *Estrada*, 568 B.R. 533, 541.

For all of these reasons, the tentative ruling is to deny the motion without leave to amend.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Party Information

Debtor(s):

Carlos Alberto Ramirez

Represented By
Daniel King

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

11:00 AM

2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

#2.00 Hrg re: Motion of plaintiffs Kieran and Sharon Graner to Strike Answer and Enter Default of defendants Douglas Lawrence Decoster and Elsa Diane Decoster

Docket 23

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 3, 12/17/19 at 11:00 a.m.)

Party Information

Debtor(s):

Douglas Lawrance DeCoster

Represented By
Charles J Brash

Defendant(s):

Douglas Lawrance DeCoster

Pro Se

Elsa Diane DeCoster

Pro Se

Joint Debtor(s):

Elsa Diane DeCoster

Represented By
Charles J Brash

Plaintiff(s):

Kieran Graner

Represented By
Stephen B Goldberg

Sharon Graner

Represented By
Stephen B Goldberg

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

11:00 AM

2:17-25639 Douglas Lawrance DeCoster

Chapter 7

Adv#: 2:18-01212 Graner et al v. DeCoster et al

- #3.00** Cont'd Status Conference re: Complaint to Determine Dischargeability of Debt Pursuant to Sections 523 and 727 of the United States Bankruptcy Code fr. 9/4/18,10/9/18, 11/27/18, 01/08/19, 2/5/19, 03/05/19, 04/30/19, 06/04/19; 07/30/19, 9/24/19, 11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Current issues

- (1) Plaintiffs' motion to strike answer and enter default (adv. dkt. 23)

The tentative ruling is that, because no Answer was ever filed, Plaintiffs' request to strike the answer is moot. As for Plaintiffs' request for entry of a default judgment, the parties are directed to appear and address whether this Court should enter a default judgment or if instead the attempted settlement will be implemented.

- (2) Status Conference

The tentative ruling is to set a continued status conference for 1/28/20 at 11:00 a.m., with no written status report required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing

Tentative Ruling for 11/12/19:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

Continue to 12/17/19 at 11:00 a.m., to be concurrent with another calendared matter (see adv. dkt. 23-25). Appearances are not required on 11/12/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). The parties should be prepared to discuss the following issues:

(1) No Status Report

Again, the parties have not filed a Joint Status Report. Why not?

(2) Efforts to finalize settlement

The 4/18/19 status report (adv.dkt.19) reports that this matter has settled. But the dockets in this adversary proceeding and in the associated bankruptcy case still do not reflect any steps to finalize the settlement (e.g., a motion in this adversary proceeding to approve a stipulated judgment, and/or a status report regarding the status of settlement payments and a suggested date to continue this matter, and/or if necessary a motion in the bankruptcy case to approve a settlement per Rule 9019, Fed. R. Bankr. P.). Why not? This adversary proceeding has been pending since 6/22/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

11:00 AM

CONT... Douglas Lawrance DeCoster

Chapter 7

Continue to 9/19/19 at 11:00 a.m., with a brief status report due 9/5/19 addressing whether the required settlement payments have been made, and any other issues regarding the parties' settlement (as reported at the status conference on 6/4/19). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

The parties are directed to address why the docket does not reflect any steps to finalize their reported settlement (*e.g.*, a motion in this adversary proceeding to approve a stipulated judgment, and/or if necessary a motion in the bankruptcy case to approve a settlement per Rule 9019, Fed. R. Bankr. P.). This adversary proceeding has been pending since 6/22/18.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue this status conference to 6/4/19 at 11:00 a.m. so that the parties can document their settlement and obtain any approval of Court that may be necessary or appropriate. See Status Report (adv. dkt. 19). Appearances are not required on 4/30/19.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/5/19:
Appearances required.

The parties are directed to address (1) why no status report was filed as required by the adopted 2/5/19 tentative ruling, and (2) whether the parties have scheduled and/or attended mediation.

The tentative ruling is to continue this status conference to 4/9/19 at 11:00 a.m, with a brief status report due by 3/26/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/5/19:

Continue to 3/5/19 at 11:00 a.m, with a brief status report due by 2/26/19. Although the latest Status Report (adv. dkt. 16) does not address whether the mandatory mediation ordered by this Court has occurred, it appears that more time is needed for mediation. Caution: If the parties do not schedule and attend mediation before the next status conference, this Court may impose sanctions on the recalcitrant party(ies). Appearances are not required on 2/5/19.

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/8/19:

Continue to 2/5/19 at 11:00 a.m, with a brief status report due by 1/29/19.
Appearances are not required on 1/8/19.

The parties have lodged, and this Court has approved, the Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator (dkt. 11). This Court is not aware of issues that would warrant a status conference at this time.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/27/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 10/9/18, Defendants did not appear, and this Court was persuaded to take a flexible approach to whether Plaintiff would pursue default judgments, or mediation, or other avenues. The docket does not reflect any activity since that time. Should this status conference be continued? Should this adversary proceeding be dismissed for lack of prosecution?

If appearances are not required at the start of this tentative ruling but you

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/9/18:

Appearances required, but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address why neither party has lodged a mediation order (via this Court's "LOU" program) as required by the adopted tentative ruling for 9/4/18. *Cf.* adv. dkt. 7 (belated request for mediation).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/4/18:

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding. The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority. The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if

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litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 9/10/18 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 6/22/18. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/27/18.

Expert(s) - deadline for reports: 12/4/18

Expert(s) - discovery cutoff (if different from above): 12/11/18

Dispositive motions to be heard no later than: 12/18/18.

Joint Status Report: n/a

Continued status conference: 10/9/18 at 11:00 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances

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are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Douglas Lawrance DeCoster	Represented By Charles J Brash
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Defendant(s):

Douglas Lawrance DeCoster	Pro Se
Elsa Diane DeCoster	Pro Se

Joint Debtor(s):

Elsa Diane DeCoster	Represented By Charles J Brash
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Plaintiff(s):

Kieran Graner	Represented By Stephen B Goldberg
Sharon Graner	Represented By Stephen B Goldberg

Trustee(s):

Rosendo Gonzalez (TR)	Pro Se
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2:19-10153 Christian Rossil

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Adv#: 2:19-01138 Rossil v. Ruan Partida et al

- #4.00** Cont'd status conference re: Complaint for a determination of the validity, priority or extent of liens and security interests
fr. 07/30/19, 9/24/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(A) Current issues

(1) Status of anticipated settlement

At the hearing on 9/24/19 this Court directed the parties to lodge a mediation order no later than 12/3/19 if the matter had not settled by then. It appears that at least some parties may have settled. The trustee and one of the defendants have filed a status report (adv. dkt. 10) stating that they anticipate settling this matter, either by cooperating in a sale of the the real property or by defendants purchasing the estate's claims against them. The parties are directed to address the status that anticipated settlement, and any other relevant matters.

(B) General issues

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adversary docket number(s) 8, 9).

(2) Deadlines: This adversary proceeding has been pending since 5/10/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

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Dispositive motions to be heard no later than: N/A

Joint Status Report: 2/4/20

Continued status conference: 2/18/20 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order entitled "Order On Initial Status Conference" via LOU within 7 days after the status conference, attaching a copy of this tentative ruling.

This Court has reviewed the parties' joint status report (dkt. 9) and the other filed documents and records in this adversary proceeding. The tentative ruling is to order mediation - as requested by both parties - and continue this Status Conference as set forth below.

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status

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(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a deadline of 10/2/19 for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will chose among them, or issue his own order).

(3) Deadlines: This adversary proceeding has been pending since 5/10/19. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

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Dispositive motions to be heard no later than: N/A

Joint Status Report: 12/3/19.

Continued status conference: 12/17/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Continue to 9/19/19 at 11:00 a.m. to provide the newly-appointed Chapter 7 Trustee an opportunity to meet and confer with the defendants (see adv. dkt. 8). Appearances are not required on 7/30/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Christian Rossil

Represented By
Todd B Becker

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Defendant(s):

Daniel Ruan Partida

Represented By
Lazaro E Fernandez

Sergio Salgado

Pro Se

Plaintiff(s):

Christian Rossil

Represented By
Todd B Becker

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01218 Vaatete v. Graff

#5.00 Hrg re: Motion to Set Aside Entry of Default in Adversary Proceeding Pursuant to FED.R.BANKR.P. 7055 and F.R.C.P. 55(c)

Docket 19

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 8, 12/17/19 at 11:00 a.m.)

Party Information

Debtor(s):

Zeta Graff

Pro Se

Defendant(s):

Zeta Graff

Represented By
Zachary D Schorr

Plaintiff(s):

Olivia Vaatete

Represented By
Scott D Dinsmore
Brennan Mitch

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

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2:19-14137 Zeta Graff

Chapter 7

Adv#: 2:19-01218 Vaatete v. Graff

#6.00 Cont'd Status Conference re: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(6) and 11 U.S.C. Section 727(c) fr. 9/24/19, 11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances are not required.

Current issues

(1) Debtor/Defendant's motion to set aside entry of default (adv. dkt. 19), Plaintiff's opposition (adv. dkt. 25), and Debtor/Defendant's reply (adv. dkt. 26)

Deny without prejudice for the reasons set forth below.

The 9th Circuit employs a three-part test to determine whether or not "good cause" exists to set aside entry of default under Rule 55(c) (Fed. R. Civ. P.), made applicable in adversary proceedings by Rule 7055 (Fed. R. Bankr. P.). The three factors are:

(1) whether [the party seeking to set aside the default] engaged in culpable conduct that led to the default; (2) whether [it] had [no] meritorious defense; or (3) whether reopening the default judgment would prejudice the other party. [*United States v. Signed Pers. Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir. 2010) (internal quotation and citation omitted).]

This standard is disjunctive, such that a finding that any one of the above factors is true is sufficient reason to refuse to set aside the default. *Id.*

(a) Whether Debtor engaged in culpable conduct that led to the default

Debtor provides three explanations for why she was not culpable - (1) her prior counsel withdrew on 8/6/19, shortly before her answer was due (on 8/14/19), and prior counsel never filed an answer, (2) a series of exigent

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personal matters, and (3) that she is not an attorney and is unfamiliar with the details and formalities of litigation deadlines. Adv. dkt. 19, p.4:11-14 and p.4:21-27.

Debtor did not file the instant motion (11/17/19) until almost three months after default was entered against her (8/20/19, adv. dkt. 9). See adv. dkt. 25, p.5:13-16. Debtor has not explained why the above three explanations excuse a three month delay in filing the motion. Was Debtor interviewing lawyers during that time? Debtor also does not provide any specific dates of her exigent personal matters that demonstrate there was a direct relationship between those events and Debtor's mental state at the time the answer was due. See adv. dkt. 25, p.6:10-12. For example, did Debtor visit a doctor or other professionals to address those exigent personal circumstances? While Debtor might not be an attorney familiar with litigation deadlines, immediately after default was entered she enlisted her state court attorney to assist in having the default set aside. Adv. dkt. 19, p.3:25-p.4:1. Was Debtor similarly aware of the answer deadline?

The tentative ruling is that Debtor has not provided sufficient support for her explanations of how she did not engage in culpable conduct, which is sufficient grounds for denying her motion.

(b) Whether Debtor has meritorious defenses to the causes of action in the adversary proceeding

Debtor's motion explains that Debtor has meritorious defenses to the causes of action in the underlying state court action. Adv. dkt. 19, p.6:13-7:8. Plaintiff's opposition explains that Debtor's motion does not address defenses to Plaintiff's objections to dischargeability, which are the matters at issue in this adversary proceeding. Adv. dkt. 25, p.6:23-25. Debtor's reply states that because the state court actions have not been finally adjudicated, there is no debt owed to Plaintiff by Debtor that the court can make a determination on regarding dischargeability. Adv. dkt. 26, p.4:7-10.

Debtor is incorrect as to Debtor not owing Plaintiff a debt. Plaintiff's complaint explains that Plaintiff's fees and costs award was affirmed on appeal and the abstract of judgment was recorded on 7/19/18. Adv. dkt. 1, p.11, paras. 33-34. Plaintiff's complaint further alleges that Debtor's action to allegedly prevent collection of the judgment is grounds for denying Debtor her discharge under 11 U.S.C. 727. *Id.* at p.12, para. 44. Debtor's motion does not provide any meritorious defenses to this cause of action. Moreover, in order to defeat Plaintiff's cause of action on this issue, Debtor would need to

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meet the burden of proof for a motion for reconsideration. It appears Debtor would have a very difficult time meeting this standard, especially in light of Debtor's admission that the lien which eats up all the equity in Debtor's property that might otherwise be used to pay the judgment is a sham. See dkt. 142, p.3:1-3; adv. dkt. 25, p.7:26-p.8:1.

The tentative ruling is that Debtor has not provided any meritorious defenses to that portion of the adversary proceeding, which is a sufficient ground to deny her motion as currently presented. The tentative ruling is that it is premature to address whether Debtor has meritorious defenses with respect to the remainder of the adversary proceeding, because that may be mooted by the issue- or claim-preclusive effect of the actions that are proceeding in nonbankruptcy court.

(c) Whether reopening the default judgment will prejudice

Plaintiff

Debtor argues that Plaintiff will not be prejudiced if this Court grants her requested relief because moving forward on the merits after "only a short delay" should not prejudice Plaintiff's ability to litigate her case. Adv. dkt. 19, p.7:10-22. Plaintiff says that she will be prejudiced because the history of Debtor's bankruptcy case evidences a pattern of fraudulent actions by Debtor to hinder Plaintiff's prosecution of the state court cases. Adv. dkt. 25, p.7:25-26.

While this Court agrees with Plaintiff that there appears to have been fraud re the \$5 million recorded lien on Debtor's property, Plaintiff has not explained the basis for her assertion that now that Debtor is in bankruptcy the same sort of fraudulent behavior is likely to occur.

The tentative ruling is that granting Debtor's motion will not prejudice Plaintiff.

(d) Conclusion

The tentative ruling is that while granting Debtor's motion may not prejudice Plaintiff, Debtor has not provided sufficient support for her explanations of how she did not engage in culpable conduct, and she has not explained what her meritorious defenses to the causes of action in this adversary proceeding are, so this Court is denying Debtor's motion without prejudice.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling,

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thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 11).

(2) Mediation. [intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since 7/12/19.

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 12/31/19

Continued status conference: 1/14/20

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/12/19:

Continue this status conference as set forth below. This Court has reviewed Plaintiff's latest status report (adv. dkt. 15) and is not aware of any issues that warrant a status conference at this time. Appearances are not required on

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(1) Venue/jurisdiction/authority.

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 11).

(2) Mediation. [intentionally omitted]

(3) Deadlines: This adversary proceeding has been pending since 7/12/19.

Discovery cutoff (for completion of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 10/30/19.

Continued status conference: 12/17/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). This Court has reviewed Plaintiff's unilateral status report (adv. dkt. 11) and the other filed documents and

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CONT... **Zeta Graff**

Chapter 7

records in this adversary proceeding.

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order entitled "Order On Initial Status Conference" via LOU within 7 days after the status conference, attaching a copy of this tentative ruling.

Preliminary matters: continuance

Plaintiff's Status Report notes (a) that a Clerk's Default was entered in this case on 8/20/19 (adv. dkt. 9) and (b) that she will either seek relief from the automatic stay to proceed with defamation actions in nonbankruptcy court and/or seek a default judgment in this adversary proceeding. The tentative ruling is to continue this Status Conference as set forth below, at which time this Court can assess what progress has been made on those issues. Note: In addition, this Court will hold a Status Conference concurrent with any other hearing in this adversary proceeding (including any self-calendared hearings).

Standard matters

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(1) Venue/jurisdiction/authority.

Plaintiff is directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final

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judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. [Intentionally omitted.]

(3) Deadlines: This adversary proceeding has been pending since 7/12/19.

Discovery cutoff (for *completion* of discovery): N/A

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 10/30/19.

Continued status conference: 11/12/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: N/A

Pretrial conference: N/A

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: N/A (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: N/A

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Zeta Graff

Pro Se

Defendant(s):

Zeta Graff

Pro Se

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CONT... Zeta Graff

Chapter 7

Plaintiff(s):

Olivia Vaatete

Represented By
Scott D Dinsmore
Brennan Mitch

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

11:00 AM

2:19-13984 Rogelio Morales Hernandez

Chapter 13

Adv#: 2:19-01207 Hernandez v. Avail Holding LLC et al

#7.00 Cont'd status conference re: Complaint for Validity, priority or extent of lien or other interest in property; injunctive relief; Declaratory judgment
fr. 9/24/19, 10/15/19

Docket 1

*** VACATED *** REASON: Notice of voluntary dismissal [FRBP 7041 (a)] [Dkt. 20]

Tentative Ruling:

Party Information

Debtor(s):

Rogelio Morales Hernandez

Represented By
Mariano A Alvarez

Defendant(s):

Avail Holding LLC

Represented By
Abe G Salen

Does 1-10

Pro Se

Plaintiff(s):

Rogelio Morales Hernandez

Represented By
Mariano A Alvarez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1645 Calendar**

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Hearing Room 1645

11:00 AM

2:14-30543 Erlinda Grace Tan Elemen

Chapter 7

Adv#: 2:19-01182 Elemen v. Trinity Financial Services LLC et al

#8.00 Cont'd Order to Show Cause Why Adversary Proceeding
Should Not Be Dismissed Against Special Default
Services, Inc.
fr. 10/29/19

Docket 12

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required. There is no tentative ruling, but the Debtor should be prepared to address the issues raised in this Court's order to show cause (adv. dkt. 12).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Erlinda Grace Tan Elemen

Represented By
Emmanuel S Vargas

Defendant(s):

Trinity Financial Services LLC

Represented By
Matthew S Henderson

Special Default Services, Inc.

Pro Se

DOES 1-10

Pro Se

**United States Bankruptcy Court
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11:00 AM

CONT... Erlinda Grace Tan Elemen

Chapter 7

Plaintiff(s):

Erlinda Grace Tan Elemen

Pro Se

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

11:00 AM

2:19-23062 Joel Spivak

Chapter 7

#9.00 Order to show cause why this court
should not impose sanctions

Docket 1

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues set forth in this Court's "Order (1) Regarding Dismissal of Involuntary Petition, or Other Remedies, (2) Directing Al Mack, Daniel Fernandez, Booker Chism, and Joel Spivak to Appear and Show Cause Why This Court Should Not Impose Sanctions, and (3) Authorizing Hearing on Shortened Time on Any Motion to Annul the Automatic Stay or For Other Remedies" (dkt. 3).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Joel Spivak

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:18-20704 Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 7

#10.00 Hrg re: Trustees Motion for Order: (A) Authorizing the Trustee to Operate Certain Real Property of the Estate; (B) Authorizing the Use of Cash Collateral and Authorizing Immediate Payment of Necessary Expenses; (C) Authorizing the Trustee to Hire a Professional Property Manager and/or Property Inspector, and Pay Any and All Necessary Fees and Expenses Related Thereto; (D) Directing Tenants to Pay Rents to The Trustee; and (E) Authorizing the Trustee to be Heard on Shortened Time to Evict the Debtors if They Fail to Cooperate

Docket 194

Tentative Ruling:

Grant, subject to the terms set forth in the objection of U.S. Bank as trustee (dkt.205) and the reservation of rights in the response filed by Poser Investments, Inc. (dkt.204). Appearances are not required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Finnian Osakpamwan Ebuehi

Represented By
Michael Jay Berger

Joint Debtor(s):

Elizabeth Olohirere Ebuehi

Represented By
Michael Jay Berger

Trustee(s):

Peter J Mastan (TR)

Represented By
Ashleigh A Danker

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CONT... Finnian Osakpamwan Ebuehi and Elizabeth Olohirere

Chapter 7

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1:00 PM

2:19-23303 Candelario Lora

Chapter 11

#1.00 Status conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Cash collateral motion (dkt.31-33)

Debtor has self-calendared this motion for 1/14/20 at 1:00 p.m. That is over a month after the petition date.

What is Debtor doing with the cash meanwhile? There may be no good answer: either Debtor is using the cash, in violation of 11 U.S.C. 363(c), or Debtor is not using the cash to pay essential expenses, in violation of Debtor's duties to manage the estate and pay utility bills and other ordinary and necessary expenses in a timely manner (see 11 U.S.C. 1107-08 and 28 U.S.C. 959(b)).

Why did Debtor not use the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) to have this matter heard on 14 days' notice, or alternatively apply for an order shortening time if the matter needed to be heard before that 14 day period?

(2) Deadlines/dates. This case was filed on 11/11/19.

(a) Bar date: 3/16/20 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt. 8 (timely served, dkt. 29)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: 1/14/20 at 1:00 p.m., *brief* status report due 12/31/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT...

Candelario Lora

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Candelario Lora

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-24099 Jeremy Caleb Gardiner

Chapter 11

#1.10 Status conference re: Chapter 11 case

Docket 6

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues N/A

(2) Deadlines/dates. This case was filed on 12/2/19.

(a) Bar date: 2/17/20 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt. 5 (timely served, dkt. 9)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: 1/28/20 at 1:00 p.m., *brief* status report due 1/14/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jeremy Caleb Gardiner

Represented By
Matthew D. Resnik

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1:00 PM

2:19-23699 Kaycee Meeks

Chapter 11

#2.00 Status conference re: Chapter 11 case

Docket 8

Tentative Ruling:

Appearances required by counsel for the debtor, but (a) it is not necessary for Debtor to appear (notwithstanding this Court's procedures order, dkt.6) and (b) telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues N/A

(a) Debtor's motion to dismiss this case (dkt. 20, 21)

Although Debtor's motion is not set for hearing until 1/7/20 at 1:00 p.m., this Court's procedures order (dkt.6) was served on all creditors (dkt.10) and it provides that this Court may dismiss this case at any status conference. The tentative ruling is that it is appropriate to dismiss this case at this status conference, for the reasons set forth in Debtor's motion and Debtor's status report (dkt.19).

(2) Deadlines/dates. This case was filed on 11/20/19.

(a) Bar date: N/A

(b) Procedures order: dkt. 6 (timely served, dkt. 10)

(c) Plan/Disclosure Statement*: N/A

(d) Continued status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Kaycee Meeks

Chapter 11

Party Information

Debtor(s):

Kaycee Meeks

Represented By
Nima S Vokshori

**United States Bankruptcy Court
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1:00 PM

2:19-24048 110 West Properties, LLC

Chapter 11

#3.00 Status conference re: Chapter 11 case

Docket 5

Tentative Ruling:

Appearances required by counsel for the debtor (see dkt. 21, excusing debtor's appearance).

(1) Current issues

(a) Has Debtor ceased all operations?

Debtor's status report gives the impression, but does not quite state, that Debtor is not conducting any business operations at this time (dkt. 27, p. 3). Debtor is directed to confirm this, or disclose if that is not so, at the hearing.

(b) Budget motion

Debtor's status report states that a budget motion is not required by the presiding judge's procedures. Dkt. 27, p.5. That is wrong (see posted Procedures, available at cacb.uscourts.gov), but the tentative ruling is to excuse this requirement with a caution to counsel not to mis-state the applicable procedures.

(2) Deadlines/dates. This case was filed on 11/29/19.

(a) Bar date: 3/31/20 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures order: dkt. 2 (timely served, dkt. 8, 9)

(c) Plan/Disclosure Statement*: N/a

(d) Continued status conference: 1/28/20 at 1:00 p.m., *brief* status report due 1/14/20. Debtor is directed to appear in person, through its designated representative.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... 110 West Properties, LLC

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Properties, LLC 110 West

Represented By
Gregory K Jones

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1:00 PM

2:17-19548 Layfield & Barrett, APC

Chapter 11

#4.00 Hrg re: Motion for Order Approving
Settlement with Affeld Grivakes, LLP

Docket 466

Tentative Ruling:

Please see tentative ruling for the status conference (calendar no. 5, 12/17/19 at 1:00 p.m.).

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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2:17-19548 Layfield & Barrett, APC

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19
04/30/19, 06/04/19, 7/30/19, 9/10/19, 10/1/19, 10/15/19,
11/12/19, 12/10/19

Docket 323

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances are not required on 12/17/19.

(1) Current matters

(a) Trustee's motion to approve compromise with Affeld Grivakes, LLP (dkt. 466), no opposition is on file

Grant the motion and approve the settlement.

Proposed order: The trustee is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (dkt. 25).

(a) Bar date: 2/5/18 (timely served, dkt. 133, 157)

(b) Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(c) Continued status conferences Continue to 2/18/20 at 11:00 a.m., to be heard concurrently with other matters. No status reports required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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CONT... Layfield & Barrett, APC

Chapter 11

www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/10/19:

Appearances are not required on 12/10/19.

(1) Current matters

(a) Affeld Grivakes Adv.

Continue this matter to the date set forth below for the parties to finalize and obtain approval (if required) of their settlement. See Joint Statement of Parties re Settlement and Rule 9019(a) Motion (Adv No. 2:19-ap-01028-NB, dkt. 10).

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences Continue all three of today's status conferences (in L&B, Lay-Invol, and Affeld Grivakes Adv.) to 2/18/20 at 11:00 a.m., to be heard concurrently with other matters. No status reports required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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CONT... Layfield & Barrett, APC

Chapter 11

Tentative Ruling for 11/12/19:

Appearances are not required on 11/12/19.

(1) Current matters

(a) Affeld Grivakes Adv.

This Court has reviewed the Joint Statement of Parties re Settlement and Rule 9019(a) Motion (adv. dkt. 10) in which the parties state that they have reached a settlement and request time to obtain court approval pursuant to Rule 9019 (Fed. R. Bankr. P.). The 12/3/19 at 9:00 a.m. trial is vacated. Plaintiff is directed to lodge a proposed order vacating the trial and related deadlines via LOU within 7 days.

(2) Deadlines/dates. The L&B case was filed as an involuntary chapter 7 on 8/3/17 and converted to chapter 11 on 8/11/17 (L&B dkt. 25). The Lay-Invol case was filed as an involuntary chapter 7 case on 5/21/18 and an order for relief was entered on 12/12/18 (Lay-Invol dkt. 160, 161).

(a) L&B Bar date: 2/5/18 (timely served, L&B dkt. 133, 157)

(b) Lay-Invol Bar date: 4/12/19 (timely served, Lay-Invol dkt.180)

(c) L&B Plan/Disclosure Statement*: TBD. Do not file or serve until further order of this court.

(d) Continued status conferences Continue all three of today's status conferences to 12/10/19 at 11:00 a.m., to be heard concurrently with other matters. No status reports required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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CONT... Layfield & Barrett, APC

Chapter 11

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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1:00 PM

2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01135 Koi Design LLC v. Strategic Partners, Inc.

#6.00 Cont'd status Conference re: Complaint for
Avoidance of Judicial Liens and Declaratory
Relief
fr. 7/16/19, 7/30/19, 9/24/19, 10/15/19

Docket 1

***** VACATED *** REASON: This matter scheduled to be heard at a
different time. See # 7 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

Strategic Partners, Inc.

Represented By
Howard Camhi

Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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2:19-10762 Koi Design LLC

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19, 5/14/19, 6/11/19, 7/30/19, 9/24/19, 10/15/19

Docket 1

***** VACATED *** REASON: This matter scheduled to be heard at a
different time. See # 9 at 2:00 p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

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1:00 PM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#8.00 Hrg re: First interim application for compensation and reimbursement of expenses of Michael Jay Berger

Docket 58

Tentative Ruling:

Please see tentative ruling for the status conference (calendar no. 10, 12/17/19 at 1:00 p.m.).

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 9/17/19, 11/5/19, 12/2/19

GOLDMAN SACHS BANK USA
vs
DEBTOR

Docket 25

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see tentative ruling for status conference (calendar no. 10, 12/17/19 at 1:00 p.m.).

Tentative Ruling for 12/2/19:

Please see tentative ruling for status conference (calendar no. 2, 12/2/19 at 10:00 a.m.).

Tentative Ruling for 11/5/19:

Please see tentative ruling for status conference (calendar no. 12, 11/5/19 at 1:00 p.m.).

[Prior Tentative Ruling incorporated into final order, dkt. 39]

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

Movant(s):

Goldman Sachs Bank USA

Represented By
Daniel H Slate
Anthony J Napolitano

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-17410 South Street Brentwood, LLC

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/30/19, 10/29/19, 11/5/19, 12/2/19

Docket 4

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Goldman Sachs' Motion for relief from stay (dkt. 25, 26, 27, 28), Debtor's opposition (dkt. 31), Goldman Sachs' reply (dkt. 32, 33), adequate protection order (dkt. 39), Debtor's supplemental brief (dkt. 47), Goldman Sachs' supplemental reply (dkt. 59, 50, 51), stipulation to continue hearing (dkt. 53), Debtor's supplemental opposition (dkt. 57), Goldman Sachs' supplemental reply (dkt. 67, 68), order (dkt. 72)

At the hearing on 12/2/19, this Court granted Goldman Sachs' motion for relief from stay in part, such that the stay will continue in force and effect only through 2/28/20, but set some discovery-related deadlines and continued this hearing to address any discovery disputes. If there are no disputes that need to be resolved at this time, the tentative ruling is to continue this matter to the same time as the continued status conference (see below).

(b) Law office of Michael J. Berger's first interim fee application (dkt. 58), no opposition is on file

Grant the application and authorize fees of \$19,559 and costs of \$374.20, for a total award of \$19,933.20.

Proposed order: Applicant is directed to lodge a proposed order via LOU within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (dkt. 21; timely served, dkt. 23)

(b) Procedures order: dkt. 3 (timely served, dkt. 11)

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CONT...

South Street Brentwood, LLC

Chapter 11

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 1/28/20 at 1:00 p.m. *Brief* status report due 1/14/20.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). **NOTE:** Due to the specially-set nature of this hearing and scheduling conflicts, Judge Bason will be appearing by telephone.

(1) Current issues

(a) Goldman Sachs' Motion for relief from stay (dkt. 25, 26, 27, 28), Debtor's opposition (dkt. 31), Goldman Sachs' reply (dkt. 32, 33), adequate protection order (dkt. 39), Debtor's supplemental brief (dkt. 47), Goldman Sachs' supplemental reply (dkt. 59, 50, 51), stipulation to continue hearing (dkt. 53), Debtor's supplemental opposition (dkt. 57), Goldman Sachs' supplemental reply (dkt. 67, 68)

The tentative ruling is to modify and condition the automatic stay, under 11 U.S.C. 362(d)(1) and (2), such that the stay will continue in force and effect only through 2/28/20, which will allow debtor a final opportunity to obtain the anticipated construction permits within the time frame it current projects and several additional weeks to secure its anticipated post-petition financing.

This Court acknowledges that Debtor appears to be making incremental progress towards paying off Goldman Sachs and restructuring its finances. But this Court is also mindful that (a) Goldman Sachs' lien has

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CONT... **South Street Brentwood, LLC**

Chapter 11

been in default since 12/2018; (b) Debtor has already benefitted from five months of stay protection since the 6/25/19 petition date; (c) based on a review of Goldman Sachs' recent appraisal (dkt. 68), its interest in the property is only protected by a minimal equity cushion; (d) Debtor's progress to date has fallen short of its projections; and (e) although Debtor has been making payments equivalent to the non-default interest, the parties have not briefed whether default interest is allowable, and the risk that it is allowable makes further delays substantially more likely to be detrimental to Goldman Sachs and other creditors.

Proposed order: Goldman Sachs is directed to lodge a proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1) (B).

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (dkt. 21; timely served, dkt. 23)

(b) Procedures order: dkt. 3 (timely served, dkt. 11)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/17/19 at 1:00 p.m. concurrent with other matters. No status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

Appearances are not required on 11/5/19.

(1) Current issues

(a) Budget Motion (dkt. 30), Goldman Sachs Bank USA's (Goldman

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CONT... **South Street Brentwood, LLC**

Chapter 11

Sachs") opposition (dkt. 34), Stipulation re budget motion (dkt. 41, 42)
("Stipulation")

Grant, subject to the terms of the Stipulation.

Proposed orders: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1) (B).

(b) Goldman Sachs' Motion for relief from stay (dkt. 25, 26, 27, 28), debtor's opposition (dkt. 31), Goldman Sachs' reply (dkt. 32, 33), adequate protection order (dkt. 39), debtor's supplemental brief (dkt. 47), Goldman Sachs' supplemental reply (dkt. 59, 50, 51)

Continued to 12/2/19 at 10:00 a.m., per stipulation (dkt. 53) and order thereon.

(2) Deadlines/dates. This case was filed on 6/25/19.

(a) Bar date: 10/15/19 (dkt. 21; timely served, dkt. 23)

(b) Procedures order: dkt. 3 (timely served, dkt. 11)

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/2/19 at 10:00 a.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances are not required on 10/29/19.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/25/19.

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South Street Brentwood, LLC

Chapter 11

- (a) Bar date: 10/15/19 (timely served, dkt.23).
 - (b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 11/5/19 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/30/19:

Appearances required by counsel for the debtor and by Debtor's principal.

(1) Current issues

This Court has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/25/19.

- (a) Bar date: 10/15/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
 - (b) Plan/Disclosure Statement*: N/A (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (c) Continued status conference: 10/29/19 at 1:00 p.m. No written status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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CONT... South Street Brentwood, LLC

Chapter 11

required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

South Street Brentwood, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#11.00 Hrg re: First Interim Application of Levene, Neale, Bender, Yoo
& Brill L.L.P. For Approval of Fees and Reimbursement of Expenses

Docket 133

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 14,
12/17/19 at 1:00 p.m.)

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#12.00 Hrg re: First Interim Fee Application of Six Degrees Law Group,
Special Corporate Counsel To The Debtor and Debtor-In-Possession,
For Payment of Fees and Reimbursement of Expenses (For The Period
From September 30, 2019 Through November 8, 2019)

Docket 129

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 14,
12/17/19 at 1:00 p.m.)

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#13.00 Hrg re: First Interim Fee Application of E&W Consulting, LLC For Approval of Fees and Reimbursement of Expenses (For the Period From September 30, 2019 Through November 20, 2019)

Docket 130

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 14, 12/17/19 at 1:00 p.m.)

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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Hearing Room 1545

1:00 PM

2:19-21521 Tatung Company of America, Inc.

Chapter 11

#14.10 Cont'd Status Conference re: Chapter 11 Case
fr. 10/2/19, 10/15/19, 10/29/19, 11/5/19, 12/10/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances are not required on 12/17/19.

(1) Current issues

(a) First interim fee application of Levene, Neale, Bender, Yoo & Brill L.L.P. (dkt. 133)

Allow Levene, Neale, Bender, Yoo & Brill L.L.P. \$145,169.98 in fees and \$7,890.86 in expenses, for a total of \$153,060.84. Applicant is authorized to apply the retainer balance of \$14,734.65.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(b) First interim fee application of Six Degrees Law Group (dkt. 129)

Allow Six Degrees Law Group \$12,592.50 in fees and \$163.91 in expenses, for a total of \$12,756.41. Applicant is authorized to draw down on the retainer balance of \$32,834.00.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(c) First interim fee application of E&W Consulting, LLC (dkt. 130, 157)

Allow E&W Consulting, LLC \$99,840.00 in fees and \$8,825.26 in expenses, for a total of \$108,665.26. Applicant is authorized to apply the retainer balance of \$90,663.53.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: 1/17/20 (Order dkt. 97, timely served, dkt.101).

(b) Procedures order: dkt.18 (timely served, dkt. 25)

(c) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of

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CONT...

Tatung Company of America, Inc.

Chapter 11

such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 1/7/20 at 1:00 p.m. to be concurrent with other scheduled matters. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/10/19:

Appearances are not required on 12/10/19.

(1) Current issues

(a) Cash collateral motion (dkt. 5)

Grant on a further interim basis, on the same terms and conditions as previously ordered, except for the revised budget (dkt. 125, Ex.A), through the conclusion of a continued hearing on 1/7/19 at 2:00 p.m.

Proposed order: Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 9/30/19.

(a) Bar date: 1/17/20 (Order dkt. 97, timely served, dkt.101).

(b) Procedures order: dkt.18 (timely served, dkt. 25)

(c) Plan/Disclosure Statement*: TBD (Debtor must use the forms required by Judge Bason, absent an order excusing the use of such forms) (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(d) Continued status conference: 12/17/19 at 1:00 p.m. to be concurrent with other scheduled matters. No written status report required.

*Warning: special procedures apply (see order setting initial status

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CONT... **Tatung Company of America, Inc.**
conference).

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[Prior Tentative Rulings omitted]

Party Information

Debtor(s):

Tatung Company of America, Inc.

Represented By
Ron Bender
Lindsey L Smith
Juliet Y Oh

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1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#15.00 Hrg re: Omnibus objection to employee claims under the Warn Act

<u>Claim #</u>	<u>Claimant's Name</u>
23	Cisco Flores
24	Guillermo Gonzalez
32	Christine Hancock
36	Josaphat Carrillo
38	Juan Gamboa
45	Hernan Ivan Mendez
86	Ian Obetz
87	Alex Balbastro
88	Christian Martinez
89	John Foster
90	David McCarter
91	Scott Murray
92	Todd Hunt
93	Lionel Ayon-Sanchez
94	Carols Talamantes
95	Victor Sandoval

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CONT...	Schaefer Ambulance Service, Inc	Chapter 11
96	Logan Stout	
97	Michael Mendez	
98	Jesus Zamarripa	
99	Dustin Lane	
100	Ricardo Villa	

Docket 438

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 17, 12/17/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

**United States Bankruptcy Court
Central District of California
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Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#16.00 Hrg re: Third Motion for Order (1) Extending Debtor's Exclusivity Period for Filing and Gaining Acceptance of a Plan of Reorganization, and (2) Extending Debtor's Period to Assume or Reject Unexpired Leases of Non-Residential Real Property

Docket 444

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 17, 12/17/19 at 1:00 p.m.)

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-11809 Schaefer Ambulance Service, Inc

Chapter 11

#17.00 Cont'd Status Conference re: Chapter 11 Case
fr. 02/28/19, 03/12/19, 03/26/19, 04/09/19, 5/21/19,
05/21/19, 06/04/19, 6/18/19, 7/30/19; 08/06/19,
8/20/19, 9/24/19, 10/15/19, 11/5/19, 12/10/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Continue this status conference as set forth below. Appearances are not required on 12/17/19.

(1) Current issues

(a) Debtor's omnibus objection to employee claims under the WARN Act (dkt. 438)

Grant, with a caution to Debtor that in the future claim objections should include a cost benefit analysis, as required by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).

(b) Debtor's third motion to extend exclusivity period and period to assume or reject unexpired leases of non-residential real property (dkt. 444)

Grant - *i.e.*, (i) extend Debtor's exclusive right to file a plan of reorganization and gain acceptance of a plan of reorganization to and including 2/1/20 and 5/1/20 respectively, and (ii) extend the period in which Debtor may assume or reject unexpired leases of non-residential real property to and including 2/1/20.

Proposed orders: Debtor is directed to lodge a proposed order on each of the above matters via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 1/28/20 at 1:00 p.m. No written status report required.

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CONT...

Schaefer Ambulance Service, Inc

Chapter 11

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/10/19:

Continue this status conference as set forth below. Appearances are not required on 12/10/19.

(1) Current issues

This Court has reviewed the parties latest filed documents and is not aware of any issues that warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/17/19 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

Continue this status conference as set forth below. Appearances are not

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CONT... **Schaefer Ambulance Service, Inc**
required on 11/5/19.

Chapter 11

(1) Current issues

This Court has reviewed the parties latest filed documents and is not aware of any issues that warrant a status conference at this time.

(2) Deadlines/dates. This case was filed on 2/20/19.

(a) Bar date: 6/17/19 (timely served, dkt. 129).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 12/10/19 at 2:00 p.m. No written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Schaefer Ambulance Service, Inc

Represented By
Craig G Margulies
Montserrat Morales

**United States Bankruptcy Court
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Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#18.00 Hrg re: Objection to Claim Number 6 by Claimant Shane Smith.

Docket 89

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 24, 12/17/19 at 1:00 p.m.).

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#19.00 Hrg re: Objection to Claim Number 9 by Claimant Fabian Angulo

Docket 90

***** VACATED *** REASON: Continued to 1/14/20 at 1:00 p.m. pursuant to stipulation and order thereon (dkt. 107, 111).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#20.00 Hrg re: Objection to Claim Number 12 by Claimant Joseph Frugard

Docket 91

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 24, 12/17/19 at 1:00 p.m.).

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#21.00 Hrg re: Objection to Claim Number 14 by Claimant John Martinez

Docket 93

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 24, 12/17/19 at 1:00 p.m.).

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#22.00 Hrg re: Objection to Claim Number 13 by Claimant Joseph Frugard

Docket 92

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 24, 12/17/19 at 1:00 p.m.).

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#23.00 Hrg re: Objection to Claim Number 10 by Claimant Jesus Quintero

Docket 99

***** VACATED *** REASON: Continued to 1/14/20 at 1:00 p.m. pursuant to stipulation and order thereon (dkt. 109. 115).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

1:00 PM

2:19-16482 Unified Protective Services, Inc.

Chapter 11

#24.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/2/19, 08/06/19, 8/20/19, 10/29/19, 12/10/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances are not required.

(1) Current issues

(a) Claim objections

(i) Legal standards for objections to claim

"The term 'claim' is broadly defined to mean "a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, **contingent**, matured, unmatured, **disputed**, undisputed, legal, equitable, secure, or unsecured" 11 U.S.C. 101(5)(A) (emphasis added). The term also broadly includes a "right to an equitable remedy for breach of performance" 11 U.S.C. 101(5)(B). "The Code utilizes this 'broadest possible definition' of claim to ensure that 'all legal obligations of the debtor, *no matter how remote or contingent*, will be able to be dealt with in the bankruptcy case." *In re SNTL Corp.*, 571 F.3d 826, 838 (9th Cir. 2009). Furthermore, "a claim may exist for bankruptcy and discharge purposes long before a cause of action accrues under nonbankruptcy law." *Id.*, at 839. "It is only necessary that the creditor be able to fairly or reasonably contemplate the claim's existence as of the petition date." *Id.*

The exclusive grounds under which a debtor may successfully object to a claim are listed in 11 U.S.C. 502(b). *In re Heath*, 331 B.R. 424, 435 (9th Cir. BAP 2005); *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005).

(A) Failure to attach supporting documentation is not a sufficient basis to disallow a claim

See *Heath*, 331 B.R. at 435 ("a request for complete disallowance of the claim merely because of inadequate documentation" is not a proper objection").

(B) The fact that a claim is contingent is not a proper basis to disallow a claim under section 502(b)(1)

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Unified Protective Services, Inc.

Chapter 11

Section 502(b)(1) provides that a claim is not allowable if it is unenforceable under the applicable agreement or law "for a reason other than because such claim is contingent or unmatured." 11 U.S.C. 502(b)(1). "Under section 502(b)(1), [] contingent claims cannot be disallowed simply because the contingency occurred postpetition." *SNTL Corp.*, 571 F.3d at 838.

(C) Claim objections without merit can be overruled, and should be, even absent a response by the claimant

It is often more costly in money and time for a creditor to respond than a claim is expected to be worth, because even if the claim is allowed it will only be paid in what are sometimes called "tiny bankruptcy dollars" (*i.e.*, pennies on the dollar). In addition, any litigation will increase the administrative expense of the debtor's counsel, thereby further reducing recoveries even if the claimant prevails. Recognizing these disincentives to fight claim objections, and also recognizing that claim objections that are not well taken should not be sustained, bankruptcy courts often overrule claim objections even without any opposition by the claimant. *See, e.g., Heath*, 331 B.R. 424, 427 (affirming bankruptcy court's allowance of claims, despite most creditors' lack of participation before that court or on appeal, and noting bankruptcy court's statement that "[i]t's more trouble [for most Creditors] to respond than the claim is worth"). That approach is consistent with Rule 55(b)(2)(C) and (D) (Fed.R.Civ.P., incorporated by Rules 7055, 9001(7) and 9014(c), Fed.R.Bankr.P.), which give the trial court discretion to conduct a "prove up" hearing any deny recoveries even when the defendant/respondent defaults.

(ii) Objection to Claim 6 (dkt. 89), no opposition is on file

The tentative ruling is to DENY the objection because, as set forth above, lack of adequate documentation and the fact that the claim is disputed and contingent are not proper grounds to disallow Claim 6 under 502(b).

(iii) Objection to Claim 12 (dkt. 91), opposition papers of Joseph Frugard ("Mr. Frugard"), including declaration of Rita Leong ("Leong Decl.") (dkt. 112, 113, 114), Debtor's reply (dkt. 120)

The tentative ruling is to DENY the objection in-part because the only grounds Debtor raises for disallowance of the claim are that the claim is contingent and disputed and a duplicate of Proof of Claim 9. As set forth above, the fact that the claim is disputed and contingent is not a proper basis to disallow Claim 12, so the claim objection is denied on that basis. The tentative ruling is to CONTINUE the objection to the date set forth below for

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the continued status conference to address Debtor's assertion that Claim 12 is a duplicate of Claim 9, so the matter can be heard concurrently with Debtor's objection to Claim 9.

This Court declines to address Mr. Frugard's arguments in support of whether this Court should authorize his filing of a class claim under Rule 7023 (Fed. R. Bankr. P.), because Debtor did not raise that issue in the Claim Objection so that request is not properly before this Court at this time. Similarly, Debtor's reply argues against this Court estimating Claim 12 under section 502(c)(1), but that argument is irrelevant because neither Debtor nor Mr. Frugard have requested any such relief.

(iv) Objection to Claim 13 (dkt. 92), Joseph Frugard's opposition (dkt. 116, 117), no reply is on file

The tentative ruling is to DENY the objection because, as set forth above, lack of adequate documentation and the fact that the claim is disputed and contingent are not proper grounds to disallow Claim 13 under 502(b).

(v) Objection to Claim 14 (dkt. 93), no opposition is on file

The tentative ruling is to DENY the objection as follows. Failure to comply with Rule 3001 (Fed. R. Bankr. P.) does not alone justify disallowing the claim. The fact that the claim is disputed and contingent are not proper grounds to disallow Claim 14 under 502(b).

(vi) Summary

Nothing in the foregoing tentative rulings should be construed to prevent Debtor from defending against or objecting to these claims, either in nonbankruptcy *fora* or, if appropriate, in this Bankruptcy Court, on any grounds recognized by 11 U.S.C. 502(b). Nor does anything in the foregoing tentative rulings prevent Debtor or any creditor from filing proper papers regarding class certification (under, e.g., Rules 7023 and 9014(c), Fed.R.Bankr.P.), or to estimate claims if the fixing or liquidation of the claim would unduly delay the administration of the case or otherwise satisfy the requirements of 11 U.S.C. 502(c).

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 6/1/19.

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Unified Protective Services, Inc.

Chapter 11

- (a) Bar date: 9/6/19 (timely served 7/18/19) (dkt. 31, 32)
 - (b) Procedures order: dkt. 3 (timely served 6/18/19) (dkt. 16)
 - (c) Plan/Disclosure Statement*: TBD (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
 - (d) Continued status conference: 1/14/20 at 1:00 p.m. No status report required.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/10/19:

Continue to 12/17/19 at 1:00 p.m. concurrent with other matters.

Appearances are not required on 12/10/19.

Tentative Ruling for 10/29/19:

Continue as set forth below. Appearances are not required on 10/29/19.

(1) Current issues

This Court has reviewed Debtor's status report (dkt. 83) and 8/31/19 MOR (dkt.72) and has no issues to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 6/1/19.

- (a) Bar date: 9/6/19 (timely served 7/18/19) (dkt. 31, 32)
- (b) Plan/Disclosure Statement*: TBD (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).
- (c) Continued status conference: 12/10/19 at 1:00 p.m., No written status report required.

*Warning: special procedures apply (see order setting initial status

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conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Unified Protective Services, Inc.

Represented By
Michael Jay Berger

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2:16-15136 Glynder Lucas Striggs

Chapter 11

#25.00 Cont'd hre: Motion For Final Decree
and Order Closing Case
fr. 10/29/19, 11/12/19

Docket 191

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling in the status conference (Cal. No. 26, 12/17/19 at 1:00 p.m.).

Tentative Ruling for 11/12/19:

Please see the tentative ruling in status conference (Cal. No. 12, 11/12/19 at 1:00 p.m.).

Tentative Ruling for 10/29/19:

Please see the tentative ruling in status conference (Cal. No. 4, 10/29/19 at 1:00 p.m.).

Party Information

Debtor(s):

Glynder Lucas Striggs Pro Se

Movant(s):

Glynder Lucas Striggs Pro Se

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2:16-15136 Glynder Lucas Striggs

Chapter 11

#26.00 Cont'd Status Conference re: Post Confirmation
fr. 5/31/16, 7/19/16, 9/13/16, 11/8/16, 1/10/17, 02/28/17,
4/11/17, 5/23/17, 6/20/17, 8/8/17, 8/15/17, 11/14/17,
02/13/18, 7/10/18, 9/18/18, 12/11/18, 5/7/19; 08/06/19,
8/20/19, 9/24/19, 10/29/19, 11/12/19

Docket 6

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion for final decree (dkt. 191), limited opposition of U.S. Bank National Association ("US Bank") (dkt. 195), no reply is on file

There is no tentative ruling. This matter has been continued a number of times to allow time for Debtor and US Bank to attempt to resolve outstanding accounting issues prior to the closing of this case. The parties are directed to appear to provide this Court with an update on the status of those discussions, if any.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (order timely served, dkt. 39)

(b) Third Amended Plan (dkt. 102): Confirmed (dkt. 135).

(c) Continued post-confirmation status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter

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by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/12/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion for final decree (dkt. 191), limited opposition of U.S. Bank National Association ("US Bank") (dkt. 195), no reply is on file

There is no tentative ruling. This Court was persuaded to continue the hearing to this date to allow time for Debtor and US Bank to attempt to resolve outstanding accounting issues prior to the closing of this case. The parties are directed to appear to provide this Court with an update on the status of those discussions, if any.

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (order timely served, dkt. 39)

(b) Third Amended Plan (dkt. 102): Confirmed (dkt. 135).

(c) Continued post-confirmation status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues

(a) Motion for final decree (dkt. 191), limited opposition of U.S. Bank National Association ("US Bank") (dkt. 195), no reply is on file

The tentative ruling is to grant the Motion for Final Decree provided that (i) the order will recite that it is without prejudice to US Bank's rights to deem the loan in default for failure to make payments as set forth in US Bank's limited opposition (dkt. 195) and (ii) notwithstanding Debtor's assertion that all matters have been resolved (dkt.191, p.4, para.4.a.) it appears that once Debtor has made 60 months of payments to unsecured creditors she will have to file a motion for discharge (see Plan, dkt.102, p.4, Art.IV.A.), and therefore the tentative ruling is to close this case on an interim basis (not a final basis) so that, at that time, Debtor can more easily file a motion to reopen this case and a motion to be granted a discharge of her debts.

Proposed order: US Bank is directed to lodge a proposed order via LOU within 7 days after the hearing date reflecting the foregoing terms, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Motion by U.S. Trustee ("UST") to dismiss ("MTD," dkt.183)

At the hearing on 9/24/19 the UST orally consented to denial of its MTD.

Proposed order/withdrawal: The UST is directed either to withdraw its MTD or to lodge a proposed order via LOU denying the MTD, within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(2) Deadlines/dates. This case was filed on 4/20/16.

(a) Bar date: 7/29/16 (order timely served, dkt. 39)

(b) Third Amended Plan (dkt. 102): Confirmed (dkt. 135).

(c) Continued post-confirmation status conference: N/A

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Glynder Lucas Striggs

Pro Se

**United States Bankruptcy Court
Central District of California
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1:00 PM

2:16-25483 Riverwood Gas and Oil LLC

Chapter 11

#27.00 Post Dismissal Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances are not required.

The tentative ruling is to continue this hearing to 4/7/20 at 1:00 p.m., at which time the parties can address any remaining issues, if this matter has not been mooted meanwhile by dismissal of the appeal in the "BLM" adversary proceeding. See Order (dkt. 190), Status Report (dkt. 194), and "BLM" adversary proceeding, *passim* (adv. no. 2:18-ap-01057-NB), including District Court Notice of Deficiencies in the appeal (adv.dkt.51).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/9/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (1) whether this Court should hold off on issuing any order implementing its Memorandum Decision Granting Motion to Dismiss Without Leave to Amend (2:18-ap-01057-NB, dkt. 48), (2) whether dismissal should be without leave to amend, and (3) any other procedural issues.

If appearances are not required at the start of this tentative ruling but you

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CONT... Riverwood Gas and Oil LLC

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/2/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

Appearances required.

(1) Current matters

At the hearing on 10/2/18 this Court heard oral argument on the motion of the Bureau of Land Management ("BLM") to dismiss Debtor's adversary proceeding ("Debtor v. BLM," Adv. No. 2:18-ap-01057-NB). This Court took the matter under submission and continued the various related matters in this case to 12/4/18, and then (for this Court's own scheduling needs) to 12/18/18 (dkt. 167), and then (based on the partial shutdown of the U.S. government) to 2/26/19 (*Debtor v. BLM* adv. dkt. 44, 46).

(a) Current status and tentative rulings

This Court anticipates, prior to this 2/26/19 hearing, finalizing and issuing a Memorandum Decision granting the BLM's motion to dismiss the *Debtor v. BLM* adversary proceeding, without leave to amend. Based on that ruling, Debtor will not have any interest in the subject leases. The tentative ruling is that this moots the related matters:

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Riverwood Gas and Oil LLC

Chapter 11

(i) Debtor v. Western States Int'l et al.

Debtor's adversary proceeding against other parties in interest that essentially seeks to clear Debtor's title to the leases ("*Debtor v. Western States Int'l, et al.*," Adv. No. 2:17-ap-01326-NB); and

(ii) R/S Motion (dkt. 130)

Ms. Aliet-Gass's motion for relief from the automatic stay to proceed with pending litigation in State Court, in which she essentially seeks to assert the alleged interests of Western States Int'l against Debtor.

Accordingly, the tentative ruling is (x) to stay the foregoing related matters for a period of not less than 14 days after entry of this Court's order dismissing the *Debtor v. BLM* adversary proceeding, (y) if there is an appeal from that order, to extend such stay during the pendency of any appeal and subsequent proceedings on that order, and (z) if there is no appeal, dismiss this bankruptcy case and all pending adversary proceedings and contested matters. This Court will prepare the orders granting the BLM's motion to dismiss and the orders staying the related proceedings.

The parties should be prepared to address whether any additional procedural issues need to be addressed.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: N/A

(c) Continued status conference: 3/26/19 at 2:00 p.m., no written status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/2/18:

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Appearances required. There is no written tentative ruling, but this Court may give oral tentative rulings at the start of the hearing.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/18/18:

Continue all matters in this case that are set for today to 10/2/18 at 2:00 p.m., *sua sponte*. Appearances are not required on 9/18/18.

Tentative Ruling for 6/26/18:

Continue (1) the Status Conference and (2) the motion of Ms. Aliet-Gass for relief from the automatic stay to 9/18/18 at 2:00 p.m. to be concurrent with related hearings. Appearances are not required on 6/26/18.

Tentative Ruling for 5/8/18:

This court anticipates posting a tentative ruling at a later time. [NOTE: no tentative ruling was posted]

Tentative Ruling for 4/17/18:

Continue (1) calendar nos. 5, 6 and 7 on today's calendar, and (2) the motion for relief from the automatic stay filed by Ingrid Aliet-Gass for herself and Western States International, Inc. (dkt. 130, the "R/S Motion") all as set forth below. Appearances are not required on 4/17/18.

Specifically, the tentative ruling is as follows:

(1) Continue (a) the status conference in this bankruptcy case, (b) the status conference in adversary proceeding no. 2:17-ap-01326-NB, and (c) the debtor's motion to amend the complaint in that adversary proceeding (adv. dkt. 125, and see adv. dkt. 130, 131, 139, 142) to be concurrent with (d) the motion by the Bureau of Land Management ("BLM") to dismiss the separate adversary proceeding against it (no. 2:18-ap-01057-NB, adv. dkt. 7), which is

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currently scheduled for 5/8/18 at 2:00 p.m.

(2) Continue the R/S Motion, which is currently set for 5/1/18 at 10:00 a.m., to the same date and time.

After this hearing date this Court will prepare an order continuing all of the foregoing matters and will serve it on the BLM, Aliet-Gass, and Western States International, Inc. at the addresses known to this Court, and that order will also direct the debtor to serve those parties and any other known parties with an interest in the foregoing matters.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: see above.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/6/18:

Appearances required.

(1) Current issues.

(a) Default judgment motion - Wilshee (adv. dkt. 140). Deny for lack of service. See dkt. 140 at PDF p.4 (serving defendant at "ENTER ADDRESS HERE").

(b) Default judgment motion - JNDDC, LLC (adv. dkt. 135). Deny for lack of service. See dkt. 135, last two pages (defendant not listed in service list).

(c) Default judgment motion - Flavio Rodriguez (adv. dkt. 133). Deny for lack of service. See dkt. 133 at PDF p.8 (marked up by someone -

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movant? - to show deficiencies in completion of proof of service) *and* dkt. 133 last two pages (defendant not listed on service list).

(d) Default judgment motion - Jag Pathirana (adv. dkt. 134). Grant. It appears that plaintiff has abandoned claims against defendant Jag Pathirana other than "clearing title" to the plaintiff/debtor's alleged property interests at issue in the complaint. That appears to moot the relevant concerns previously raised by this court (see adv. dkt. 116, exhibit).

(e) Case status report (case dkt. 122) and adversary proceeding against Bureau of Land Management (Adv. No. 2:18-ap-01057-NB). The debtor should be prepared to provide an update as to the status of these matters.

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: 7/10/17 and 1/26/18 (sufficiently served, dkt. 56, 60, 103, 107, 110, 111, 121, 123).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 4/10/18 at 2:00 p.m., *brief* status report due 4/3/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/13/18:

Appearances required by counsel for the debtor and by the debtor(s) themselves but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status Reports (main case dkt. 122; adv. no. 2:17-ap-01326-NB,

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dkt. 132). The debtor/plaintiff suggests that it will be filing a motion to approve a disclosure statement. Is that premature, given the following issues?

(b) Motion to amend complaint (adv. dkt. 125). The parties should be prepared to address the issues raised in the motion and in the oppositions filed by the California Department of Conservation, Division of Oil and Gas, and Geothermal Resources ("DOGGR") (adv. dkt. 125, 130, 131).

In addition, the debtor/plaintiff should be prepared to address whether the proposed amended complaint cures the deficiencies in the original complaint, and whether any ruling on the motion to amend the complaint should be deferred until after default judgments are (or are not) obtained on the existing (original) complaint, for the reasons set forth in this Court's Memorialization Of Reasons For Denying Motions For Default Judgments (captioned for the adversary proceeding but erroneously filed in the main case as dkt. 118). See also Order denying prior motions for default judgments (adv. dkt. 117) and subsequent Motions for default judgments (adv. dkt. 133, 134, 135).

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date: initial date of 7/10/17 (order timely served, dkt. 56, 60, 103, 111, 121, 123); supplemental date of 1/26/18 (order served late, but the tentative ruling is to excuse that lateness, dkt. 107, 110).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 3/20/18 at 2:00 p.m., status report due 3/6/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Tentative Ruling for 1/23/18:

Continue the status conferences in both the main case and the adversary proceeding (adv. no. 2:17-ap-01326-NB) to 2/13/18 at 2:00 p.m. with a status report due 2/6/18 (at which time other documents are also due as set forth below) for the reasons set forth below. Appearances are not required on 1/23/18.

(1) Current issues

(a) Reasons for continuance: (i) because of the problems noted below; (ii) because of the debtor's untimely last-minute filing of status reports (the debtor is cautioned that continued untimely filings may result in sanctions); (iii) because of the inability of the Office of the United States Trustee to appear due to the shutdown of much of the federal government, (iv) to be concurrent with the (improperly self-calendared) motion to amend the complaint, and (v) in view of the debtor's various status reports (main case dkt. 117, adv. dkt. 122, 127, 129).

(b) Bar date. The debtor's proofs of service of the bar date order are missing exhibits and incomprehensible (see dkt. 110, 111). The debtor is directed to file, no later than 2/6/18, either a corrected proof of service or an application (supported by a declaration) to set yet another supplemental bar date - whichever is appropriate.

(c) Status of existing complaint in adversary proceeding. On 11/20/17 this court issued an order (adv. dkt. 117) denying the plaintiff/debtor's motions for default judgments, without prejudice. The debtor now seeks to amend the complaint (adv. dkt. 125). All of these things moot the motions for default judgments so the hearings on those motions have been vacated.

In addition, the tentative ruling is to memorialize this court's reasons for denying the motions for default judgments by filing on the docket a copy of this court's adopted tentative ruling for the 11/14/17 hearings on those motions (reproduced within the tentative ruling for calendar no. 9. 1/23/18 at 2:00 p.m.).

(d) Motion to amend complaint (adv. dkt. 125). This motion was self-calendared for 2:00 p.m. (a time that cannot be used for self-calendaring) on 2/13/18. Nevertheless, the tentative ruling is to permit that motion to proceed at that time.

(2) Deadlines/dates. This case was filed on 11/23/16.

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- (a) Bar date: initial date of 7/10/17 (order timely served, dkt. 56, 60); supplemental date of 1/26/18, to be served no later than 11/15/17 (per Order, dkt. 107) but proofs of service are incomprehensible (dkt. 110, 111) - see above under "current issues".
- (b) Plan/Disclosure Statement*: TBD.
- (c) Continued status conference: as set forth above.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/14/17:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the following issues.

(1) Current issues. The debtor has filed a second (very belated) proof of service (dkt. 103) of this court's order (dkt. 56) setting a bar date. Under that order the bar date was set as 7/10/17 and service was required no later than 5/8/17. What does the debtor's belated service do except cause confusion? Does the debtor require a new bar date for previously unknown creditors?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

- (a) Bar date: 7/10/17 (order timely served, dkt. 56, 60; but see above under "current issues").
- (b) Plan/Disclosure Statement*: TBD.

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(c) Continued status conference: 1/30/18 at 2:00 p.m., status report due 1/16/18.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/22/17:

The tentative ruling is to dismiss this case with a 180 day bar for willful failure to appear in proper prosecution, as set forth below. See 11 U.S.C. 109(g)(1). Appearances are not required.

Reasons: This case was filed on 11/23/16. The debtor's assets consist of disputed rights in hydrocarbon leases. See Status Report, dkt. 81. Realizing any value from those rights apparently depends on retaining special counsel who will diligently prosecute the debtor's claims. Despite numerous opportunities, the debtor has failed to satisfy the prerequisites for retention of special counsel.

(1) Inadequate declarations about "connections"

At the hearing on 7/11/17 this court extensively reviewed the evidence that would be required before this court could approve the application to employ the latest proposed special counsel, Mr. Montes. That included a requirement of detailed declarations from Mr. and Mrs. Hoats regarding any transfers of any property (including intangible property) involving the debtor and any of them, as well as any other "connections" (as that term is used in Rule 2014, Fed. R. Bankr. P.) to the debtor and any other party in interest.

This court recognizes that Mr. and Mrs. Hoats are not the professionals whose employment is being sought. Nevertheless, given their very close ties to the debtor, and their failure to disclose connections to the prior proposed special counsel that raised questions about conflicts of interest, this court orally ordered the debtor to provide their declarations at the hearing on

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5/2/17. That order has been ignored.

(2) Knudsen factors

This court also directed Mr. Montes to file a declaration addressing the factors that this court must consider in assessing his request to be paid more frequently than once every 120 days. See *In re Knudsen*, 84 B.R. 668, 672-73 (9th Cir. BAP 1988). Mr. Montes has filed such a declaration (dkt. 82) and has adequately summarized the factors (*id.*, p.3:15-23) but he has not adequately addressed the third factor, which he summarizes as: "any funds paid but later disapproved by the court can be recovered from the professional" in one or more of the ways listed in *Knudsen*. (Emphasis added.) Those ways are:

- [a. Holdback] retainer payments are for only a percentage of the amount billed so that the likelihood or necessity of repayment is minimal [Mr. Montes suggests a 10% holdback, which has not been shown to be adequate - the typical amount is 20%, and that typically applies only to well established firms whose ability to repay funds is reinforced by the firm's longevity and reputation or similar considerations];
- [b. Bond] counsel can post a bond covering any possible reassessment [Mr. Montes has not addressed this factor];
- [c. Financial ability to repay] counsel's financial position makes it certain that any reassessment can be repaid [Mr. Montes has not addressed this factor]; [and/or]
- [d. Hold funds in trust account] funds paid prior to allowance are held in a trust account until a final or interim fee allowance is made [Mr. Montes has only offered to place the 10% proposed holdback in a trust account]. [*Knudsen*, 84 B.R. 668, at 672]

(3) The debtor appears to cite the wrong statutory authority

The debtor's application to employ Mr. Montes (dkt. 65) requests that his employment be approved under subsection "(e)" of 11 U.S.C. 327. But that subsection only applies by its terms to an attorney who "has represented the debtor" (*i.e.*, prepetition counsel whose employment is to continue postpetition). *Id.* (emphasis added).

That is not the end of the analysis, because it has been held that special counsel can be employed even when such counsel has not represented the debtor prepetition. See *In re Fondiller*, 15 B.R. 890, 892 (9th Cir. BAP 1981) (emphasis added), *appeal dismissed*, 707 F.2d 441 (9th Cir.

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1983). Although *Fondiller* has been interpreted as authorizing employment under subsection (e) (see, e.g., *Covenant Fin. Group of Am., Inc.*, 243 B.R. 450, 455 & n. 8 (Bankr. N.D. Ala. 1999)), the precise holding of *Fondiller* appears to be that special counsel can be employed under subsection "(a)" of Section 327 because any "omission" in subsection "(e)" does not limit the general authority in subsection "(a)." See *Fondiller*, 15 B.R. at 891-92 (interpreting § 327(a) by comparison with §§ 327(c) and (e)).

True, the precise statutory authority appears to make little if any practical difference, because *Fondiller* held that when counsel is only employed to perform limited services, then an interest "adverse to the estate" means "an adverse interest relating to the services which are to be performed by that attorney," which appears to mean that the inquiry for proposed special counsel under subsection "(a)" is the same as under subsection "(e)." *Fondiller*, 15 B.R. at 892 (emphasis added). Mr. Montes' declaration (included in dkt. 65) appears to meet this test because he states that he has no adverse interest.

Nevertheless, as stated above this court has required additional evidence from Mr. and Mrs. Hoats and that evidence has not been provided. In addition, because the debtor has sought authority under subsection "(e)" instead of "(a)" it appears not have met the technical requirements for employment of Mr. Montes.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/11/17:

Appearances required.

(1) Current issues

(a) Employment of special counsel. Deny the application to employ the Law Offices of M. Brian McMahon (dkt. 46) because he no longer intends to pursue employment. See dkt. 73, para. 3. Deny the application to employ the Law Offices of Mike Montes, Jr. (dkt. 65) due to the failure to address the issues raised by this court in the tentative ruling for 5/2/17 (reproduced below) (without reaching the issues raised by the U.S. Trustee's objection, dkt. 72, and the debtor's reply, dkt. 74). The U.S. Trustee is directed to lodge proposed orders denying each application within seven days after this hearing

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date.

(b) Lack of progress. Should this case be dismissed for lack of prosecution?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date: 7/10/17 (order timely served, dkt. 56, 60).

(b) Plan/Disclosure Statement*: TBD.

(c) Continued status conference: 8/22/17 at 2:00 p.m., status report due 8/15/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/13/17:

Continue to 7/11/17 at 1:00 p.m. to allow the debtor time to prosecute an employment application regarding Mr. Motes (see debtor's case status report, dkt. 62). Appearances are not required on 6/13/17.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/2/17:

Appearances required. There is no tentative ruling, but the debtor's proposed attorney, Brian McMahon Esq., should be prepared to address the concerns set forth in the U.S. Trustee's objection (dkt. 49) and the other issues set forth below.

(1) Current issues.

(a) Proposed special counsel.

(i) Background. On 4/5/17 the debtor filed an application for authority to employ the law offices of Mr. McMahon as special counsel under 11 U.S.C. 327(e) (dkt. 47). On 4/12/17 the United States Trustee ("UST")

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filed an objection to the employment application, which expressed concerns about the payment arrangement proposed in the application (dkt. 49).

The debtor filed a statement of disinterestedness for Mr. McMahon (dkt.53), and a reply (dkt.55), stating that a third party, Ms. Lilian Hoats, will be paying the attorney fees for Mr. McMahon's representation. Ms. Hoats is the CEO of Inviron Technologies, Inc. ("Managing Member"), which is the debtor's managing member (dkt. 55, Ex.1, p.1, recital "b"). Attached to the reply (dkt. 55, Ex.1) is a written document that purports to be a waiver of conflicts (if any exist) among the debtor, Ms. Hoats, and the Managing Member (the "Hoats/Managing Member Conflict Waiver").

The Attorney-Client Retainer Agreement attached to the employment application (dkt. 46, Ex.1) provides that Mr. McMahon is representing not only the debtor but also its affiliates Riverwood Energy, LLC ("Energy Affiliate") and Riverwood Resources Ltd. ("Resources Affiliate"). This court is not aware of the precise organizational and contractual relationships among the debtor, Energy Affiliate, and Resources Affiliate, nor of any written document purporting to be a waiver of conflicts (if any exist) among them.

(ii) Statutory provisions and rules

Although special counsel does not have to be "disinterested" (compare 11 U.S.C. 327(a)), special counsel still must not "represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed." 11 U.S.C. 327(e) (emphasis added). Under Rule 2014 (Fed. R. Bankr. P.) both Mr. McMahon and the debtor were supposed to disclose all connections between Mr. McMahon and "the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee."

The disclosures have not been adequate. This court does not know enough about the underlying litigation and the organizational and contractual relationships among the various entities to assess whether there may be conflicts of interest between the debtor, on the one hand, and Ms. Hoats, Managing Member, Energy Affiliate, and/or Resource Affiliate.

(iii) A DIP's conflicts generally cannot be waived

Any purported conflict waiver probably cannot waive actual conflicts. See, e.g., *In re Perry*, 194 B.R. 875, 880 (E.D.Cal.1996) (waiver of conflict by non-debtor parties was insufficient and "[i]nformed consent could not be obtained" because "the real parties in interest in this case are the creditors,

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and that is not a waivable conflict"); *In re B.E.S. Concrete Products, Inc.*, 93 B.R. 228, 235 (Bankr. E.D. Cal. 1988).

But while actual conflicts of interest create a violation of 11 U.S.C. 327 which would require disqualification of the proposed professional, the mere existence of a potential conflict of interest does not require disqualification, and it is up to the court's discretion whether the purported conflict is sufficiently threatening to the estate to warrant disqualification. *In re Wheatfield Business Park, LLC*, 286 B.R. 412, 421 (Bankr. C.D. Cal. 2002).

Are proposed counsel and the debtor aware of any actual conflicts?
How about potential conflicts?

(iv) The purported conflict waiver is incomplete

The Hoats/Managing Member Conflict Waiver is not actually signed by Ms. Hoats in her individual capacity (she has only signed it on behalf of the debtor's Managing Member). In addition, as noted above, this court is not aware of any purported conflict waiver among the debtor and Operating Affiliate or Resources Affiliate.

(v) There might be conflicts among the debtor and Ms. Hoats

A third party who funds a retainer for the debtor (the "Funder") generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, counsel for the debtor and proposed special counsel should be prepared to address the following.

(A) Terms. What are the precise agreements, understandings or expectations regarding the funds -- e.g., are the funds a loan, a gift, an investment, or something else?

(B) Informed consent of Funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? Who provided such advice: independent counsel? counsel for the debtor? the debtor's proposed special counsel? Has the Funder given informed consent? Are those things in writing?

(C) Informed consent of debtor. Has the debtor

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likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing? Ms. Hoats has signed the Hoats/Managing Member conflict waiver on behalf of the debtor: how can she, acting for the debtor, waive conflicts with herself?

(D) Other considerations. Has proposed special counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Lotus Prop's LP*, 200 B.R. 388 (Bankr. C.D. Cal. 1996) (rejecting *per se* disqualification when fees are paid by third party); and compare *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990) (*per se* rule). See generally *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 5/23/17 at 2:00 p.m., status report due 5/9/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/4/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status report. This court's previous tentative ruling (reproduced below) directed the debtor to file a status report by 3/14/17. Why has no such status report been filed?

(b) Exit strategy. What is the debtor's exit strategy, and what progress has been made toward that goal?

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(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 5/23/17 at 2:00 p.m., status report due 5/9/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/7/17:

Continue to 4/4/17 at 2:00 p.m., status report due 3/14/17. No appearances are required on 2/7/17.

(1) Current issues

This case was filed on 11/23/16. The debtor's status report (dkt. 34) states that the debtor intends to retain special counsel, and the monthly operating reports (dkt. 37, 38) appear to show no activity other than opening DIP bank accounts and paying associated fees. Although progress in this case has been slow, it does not appear efficient to hold a status conference at this time. If substantially more progress is not shown by the next status conference, this court may dismiss this case for failure to appear in proper prosecution. See 11 U.S.C. 109(g)(1), 349.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 1/10/17:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues.

(a) Substitution of attorney. On 12/23/16, the debtor filed a substitution of attorney (dkt. 22) reflecting that current proposed counsel is Giovanni Orantes, Esq. Why has no employment application been filed?

(b) Exit strategy. What is the debtor's exit strategy, and what progress has been made toward that goal?

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/13/16:

Appearances required.

(1) Current issues

Counsel for the debtor should be prepared to address why no status report has been filed (see dkt. 3); why the docket does not reflect that anything has been done in this case to date; and why this court should not convert or dismiss this case.

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date*: to be set during the status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

*Warning: special procedures apply (see order setting initial status conference).

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/29/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves, pursuant to the order setting this status conference (dkt. 3).

(1) Current issues.

(a) First Day Motions. The debtor should be prepared to address the necessity of first day motions such as cash collateral, payroll, utilities, etc. To the extent that those motions are necessary, why have they not yet been filed?

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date*: to be set at the continued status conference.

(b) Plan/Disclosure Statement*: same.

(c) Continued status conference: 12/13/16 at 2:00 p.m., initial status report due 11/29/16.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Riverwood Gas and Oil LLC

Represented By
Giovanni Orantes
Mike Montes
Luis A Solorzano

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Chapter 11

#28.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 12/10/19

BEVERLY PARTNERS, LLC
vs
DEBTOR

Docket 47

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling for the status conference (calendar no. 30, 12/17/19 at 1:00 p.m.).

Tentative Ruling for 12/10/19:

Please see the tentative ruling for the status conference (calendar no. 13, 12/10/19 at 1:00 p.m.).

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

Movant(s):

Beverly Partners, LLC

Represented By
Simon Aron

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#29.00 Cont'd hrg re: Motion to Individual Chapter 11 Case for
Order Authorizing Use of Cash Collateral
fr. 10/1/19, 10/29/19, 12/10/19

Docket 19

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling for the status conference (calendar no. 30, 12/17/19 at 1:00 p.m.).

Tentative Ruling for 12/10/19:

Please see the tentative ruling for the status conference (calendar no. 13, 12/10/19 at 1:00 p.m.).

Tentative Ruling for 10/1/19:

Grant the motion (docket no. 19) on an interim basis, subject to the conditions set forth below, with a final hearing on 10/29/19 at 1:00 p.m., and a deadline of 10/3/19 for the movant to file and serve a notice of the final hearing provided that service on all persons with a potential interest in Debtor's cash must be served in strict compliance with Rule 7004 (Fed.R.Bankr.P.) - see the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov). Appearances required.

As to the cash that allegedly is collateral of Beverly Partners, LLC, continue this hearing pursuant to its stipulation with the debtor (dkt.31) and this Court's order thereon. As to all properties/sources of cash, Debtor must segregate cash so that there is no commingling.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of

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this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such

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liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

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(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

Movant(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan
Eric Bensamochan

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#30.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/17/19, 10/1/19, 10/29/19, 12/10/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances are not required.

(1) Current issues

(a) Beverly's motion for relief from automatic stay (dkt. 47); Debtor's opposition (dkt. 50); Beverly's reply (dkt. 53)

Continue to the same date and time as the continued status conference. *Reasons:* This Court's posted tentative ruling prior to the hearing scheduled for 12/10/19 (reproduced below) was not contested, and therefore it was adopted as this Court's ruling. The ruling was: "to continue this hearing to 12/17/19 at 1:00 p.m., with a deadline of 12/11/19 for Beverly to [i] serve all required persons with notice of the continued hearing, and [ii] file a proof of service." (Emphasis added.) Beverly has done the latter (dkt.54) but not the former.

(b) Cash collateral motion (dkt.13, 19, 26, 31, 32, 42, 43, 55, 61)
Grant on a final basis.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (see Order, dkt.28, which might or might not have been served properly, see Order, dkt.63)

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 1/28/20 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/10/19:

Appearances are not required. on 12/10/19, but Debtor and Beverly Partners, LLC ("Beverly") are directed, well ahead of the continued hearing date set forth below, to take whatever steps are necessary or appropriate to address the issues set forth below (e.g., correcting service and/or proofs of service, lodging proposed order(s), filing corrected MORs, etc.).

(1) Current issues

(a) Beverly's motion for relief from automatic stay (dkt. 47); Debtor's opposition (dkt. 50); Beverly's reply (dkt. 53)

Beverly's proof of service does not show service on the list of creditors included in Debtor's "list filed under Rule 1007(d)" (as required by Rule 4001(a)(1), Fed. R. Bankr. P.). See dkt. 1. The tentative ruling is to continue this hearing to 12/17/19 at 1:00 p.m., with a deadline of 12/11/19 for Beverly to serve all required persons with notice of the continued hearing, and file a proof of service.

(b) Cash collateral motion (dkt.19)

No proposed order has been lodged - at the hearing on 10/1/19 this Court directed counsel to lodge a proposed order granting the motion on an interim basis and attaching (and adopting) a copy of this Court's tentative ruling for that date (available at www.cacb.uscourts.gov). In addition, Debtor did not file and serve a notice of the final hearing by 10/3/19. In addition, any such service would have to be in compliance with the applicable rules for service, as stated in that adopted tentative ruling.

The current tentative ruling is (i) to direct counsel, again, to lodge a proposed order granting the motion on an interim basis through the conclusion of the final hearing, (ii) to set a final hearing for the same date and time as the continued status conference (see below), and (iii) to set a deadline of 12/11/19 for Debtor to file and serve notice of the final hearing in

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compliance with the applicable rules for service.

(c) Proof of service of bar date order (dkt.28)

Debtor's counsel has had trouble with service of this order and/or proving that it was served as required. See dkt. 35,36,37. Even the latest, second amended proof of service (dkt.37) is inadequate in that it fails to state who actually served the order and when they did so. Implicitly, the person who signed the proof of service, Paulina Buitron, is the person who actually deposited the envelopes in the U.S. mail, and that was done sometime between 9/30/19, when the order was supposed to have been served, and 10/3/19, when the proof of service was filed, but the declaration does not actually say so. In addition, at the hearing on 10/1/19 this Court directed Debtor's counsel to double-check that all creditors had in fact been served and, if not, to apply for an order setting a supplemental bar date as to any creditors who have not been served.

The tentative ruling is to excuse what appears to be untimely service of the bar date order by a few days, and set a deadline of 12/11/19 (i) for Debtor's counsel to file a third amended proof of service of the bar date order, using the local form (mandatory for all motions) (see Local Form F9013-3.1.PROOF.SERVICE), (ii) to lodge a proposed order excusing the untimely service of the bar date order, with a copy of this tentative ruling attached, and (iii) if necessary, apply for a supplemental bar date for any creditors who were not served with the bar date order, and lodge a proposed supplemental bar date order.

(d) Debtor's Monthly Operating Reports ("MORs")

Debtor appears to be having trouble complying with his obligations as a debtor in possession, including not paying prepetition debts. In addition, the October MOR (dkt.49) appears to show lossess from most of Debtor's various businesses, and perilously low bank balances, even with the reduced dollar amount of the adequate protection payments to Beverly (less than the ongoing interest obligation). In addition, there is an internal inconsistency about postpetition adequate protection and/or lease payments: the October MOR (dkt.49, at PDF p.57 of 61) lists "0" postpetition payments not made (*i.e.*, Debtor allegedly is postpetition current), but then the same table lists "Total Due" postpetition amounts of many thousands of dollars - which is it? Is Debtor postpetition current in payments to secured creditors and/or lessors, or not?

The tentative ruling is to direct Debtor (i) to confer with the Office of the

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United States Trustee and file whatever corrected MORs are necessary or appropriate, and (ii) to be prepared to address the foregoing issues at the continued status conference.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (see Order, dkt.28; see above)

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/17/19 at 1:00 p.m. (short continuance because Beverly's motion for relief from the automatic stay should be addressed soon). No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/29/19:

[N/A: continued to 12/10/19 (dkt.43)]

Tentative Ruling for 10/1/19:

Appearances required by counsel for Debtor(s) and by Debtor himself.

(1) Current issues

(a) Cash collateral motion

Grant (subject to this Court's standard conditions, see calendar no.1, 10/1/19 at 1:00 p.m.), provided that Debtor must address why this motion was not self-calendared for hearing until over a month after the petition date, and whether, meanwhile, has Debtor (i) been using cash collateral without

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authorization (in violation of 11 U.S.C. 363(c) or (ii) not been using cash collateral, and hence failing to pay ordinary and necessary business and personal expenses, in violation of Debtor's duties to pay postpetition debts as they come due and preserve and maximize the value of the bankruptcy estate. 11 U.S.C. 1107(a) and 1108, and 28 U.S.C. 959(b). The tentative ruling is that, although this is not yet sufficient cause for appointment of a chapter 11 trustee or other remedies, it may factor into consideration of any such remedies in future.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (see Order, dkt.28).

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/29/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for Debtor(s) and by Debtor himself.

(1) Current issues

(a) Budget Motion

Debtor's status report incorrectly states that a budget motion is not required by the presiding judge's procedures. Dkt. 20, p.3. See posted Procedures of Judge Bason (available at cacb.uscourts.gov) (the "Bason Procedures") Section VII.G. In addition, a budget motion appears to be

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particularly important in this case because most of Debtor's income and expenses are effectively hidden and/or mis-reported.

Debtor's Bankruptcy Schedule I reports that he is an interior designer/hair stylist (dkt.22, at PDF p.27), his Statement Of Financial Affairs ("SOFA") lists various "dba" enterprises that might or might not reflect other business ventures, and Debtor apparently rents out some of his properties using Airbnb, but there is no breakdown of any of this. Contrary to the instructions on line 8a of Schedule I, debtor lists only a total net dollar amount for all businesses/properties combined - \$22,598.00 per month - and fails to attach a statement for each business/property showing gross receipts, ordinary and necessary business expenses, and the calculation of net income. Also, in apparent contradiction of this alleged monthly net income, the SOFA (dkt. 22 at PDF p.31) lists gross income of \$20,000 for the year to date (9 months), \$7,875 for 2018, and \$28,223 for 2017. (Perhaps Debtor listed monthly net income instead of yearly gross income - if so he must file a corrected SOFA.)

The tentative ruling is to direct Debtor to file an amended Schedule I and an amended SOFA, and to file and serve a budget motion and any other documents that are necessary or appropriate to correct the foregoing deficiencies, no later than 9/27/19.

(b) Bankruptcy Schedule G

Debtor lists no executory contracts or unexpired leases (dkt.22, at PDF p.24). What about Airbnb and/or other short-term or long-term rental arrangements? The tentative ruling is to direct Debtor to file an amended Schedule G no later than 9/27/19.

(c) Cash collateral

Even though this case was filed on 8/30/19, Debtor did not self-calendar his cash collateral motion for hearing until over a month later, on 10/1/19 at 1:00 p.m. Meanwhile, has Debtor (i) been using cash collateral without authorization (in violation of 11 U.S.C. 363(c)) or (ii) not been using cash collateral, and hence failing to pay ordinary and necessary business and personal expenses, in violation of Debtor's duties to pay postpetition debts as they come due and preserve and maximize the value of the bankruptcy estate. 11 U.S.C. 1107(a) and 1108, and 28 U.S.C. 959(b). The tentative ruling is that, although this is not yet sufficient cause for appointment of a chapter 11 trustee or other remedies, it may factor into consideration of any such remedies in future.

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(d) Employment Application

The tentative ruling is to set a deadline of 9/27/19 for Debtor to file and serve local form F 2014-1.STMT.DISINTERESTED.PROF in support of Debtor's application to employ Eric Bensamochan as his bankruptcy counsel (dkt. 18). See Bason Procedures Section VII.D.

(2) Deadlines/dates. This case was filed on 8/30/19.

(a) Bar date: 12/13/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD. Debtor must use the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - this Court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/1/19 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alex Christopher Padilla

Represented By
Eric Bensamochan

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Chapter 11

#1.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/12/18, 6/26/18, 08/07/18, 10/9/18, 11/6/18,
12/11/18, 03/12/19, 3/26/19, 5/14/19, 6/11/19,
7/2/19, 7/30/19, 9/17/19, 11/12/19

Docket 5

Tentative Ruling:

Tentative Ruling for 12/17/19:
Appearances required.

(1) Current issues

Debtor's latest status report (dkt. 127) seeks a continuance so that its fourth amended plan (dkt.121) and disclosure statement (dkt.122) can be considered. The objecting occupants of Debtor's mobile home park ("Objecting Creditors") have filed a status report (dkt. 128) opposing that continuance. They assert that Debtor's plans are not confirmable as long as they do not comply with Carson Municipal Code ("CMC") 9128.21.

On the one hand, the tentative ruling is that Objecting Creditors overstate this Court's prior rulings. On the other hand, the tentative ruling is that Objecting Creditors are correct that Debtor's fourth amended plan and disclosure statement appear on their face to be so far out of compliance with this Court's prior rulings that it would be unproductive to continue this status conference to address those documents at a later time.

This Court previously ruled that:

(2) Debtor has not established that Cal. Gov. Code 65863.7(f) exempts Debtor from otherwise applicable requirements of California law or regulation, because that section by its terms requires that any closure or cessation of use of a mobilehome park must "result[] from the entry of an order for relief in bankruptcy" (emphasis added), and Debtor has not established that closure or cessation of use is the only bankruptcy option, as opposed to, for example, sale of the property as a mobilehome park under 11 U.S.C. 363; and therefore

(3) Debtor has not established that Carson Municipal Code

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[CMC] 9128.21 conflicts with, and is preempted by, ... [Cal. Gov. C. 65863.7(f)] [Order (dkt.117) at PDF p.3.]

This Court explained these rulings further at the hearing on 9/17/19, using several hypothetical situations. This tentative ruling provides a similar, expanded explanation.

At one extreme, consider a hypothetical situation in which a debtor's only viable option in bankruptcy were to cease using its property as a mobilehome park - for example, if there were a toxic waste spill on such property that forced such debtor to file for bankruptcy and the only viable bankruptcy option were to evict all the tenants/occupants and immediately sell the property to an investor who could afford the expense of stopping the spread of the toxic plume and slowly remediating the toxic waste. In that situation the closure or cessation of use of such a debtor's mobilehome park would "result from" the order for relief (*i.e.*, the bankruptcy petition, per 11 U.S.C. 301) in the sense that this was the only viable bankruptcy option. Then, presumably, Cal. Gov. Code 65863.7(f) would preempt CMC 9128.21.

At the opposite extreme, consider a different hypothetical debtor that had encountered cash flow problems but that could continue to operate its mobilehome park within bankruptcy at such a large profit that it could pay all creditors 100% over time. In that situation any attempt to close the mobile home park or cease using the property for that purpose would not "result[] from" the bankruptcy petition. In that situation, presumably, Cal. Gov. Code 65863.7(f) would not preempt CMC 9128.21.

Inbetween, consider a situation in which a hypothetical debtor could pay creditors 50% if it can cease using its property as a mobilehome park but some lesser amount (*e.g.*, 45% or 10%) if it continues operating the property as a mobilehome park. That situation presents the thorny issue whether a Debtor's generally understood obligation to attempt to maximize the recovery for unsecured creditors is a strong enough mandate to hold that closing the mobilehome park or ceasing such use would "result[] from" the bankruptcy petition (the order for relief).

This Court is not aware of any explicit statutory mandate to a debtor in possession to maximize creditors' recoveries, especially at the expense of another interest group such as tenants/occupants whose interests are protected by a municipal code. To the contrary, in general a debtor in possession must comply with nonbankruptcy law such as municipal codes. *Compare* 11 U.S.C. 1107 (debtor's duties) *with* 28 U.S.C. 959(b) (duty to

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comply with nonbankruptcy law).

But if nonbankruptcy law itself defers to whatever results from the filing of a bankruptcy petition - which appears to be so under Cal. Gov. Code 65863.7(f) - then there is a circularity problem, at least if that statute is interpreted as having no limits. The question is where to draw the line.

This would be a thorny issue if it were presented in this case. But Debtor's fourth amended plan appears to duck the issue entirely.

For example, Debtor does not appear to have made any serious attempt to compare the likely value of the property with or without continuing its use as a mobilehome park. Rather, Debtor proposes to obtain a new loan with a priming lien on the property and pay the Objecting Creditors only a relatively small dollar amount, based on the following assertion:

The Debtor attempted to employ a real estate broker that has no connections to the Debtor to market the Park but two brokers refused to take the listing because the Park appears to be substantially over-encumbered by secured debt. [Disclosure Statement (dkt.121), at PDF p.22 (emphasis added).]

That allegation is entirely unpersuasive. A debtor in possession generally can sell over-encumbered property free and clear of liens using 11 U.S.C. 363(b) and (f), and that bankruptcy tool is available precisely so that the value of estate property is not depressed by circumstances such as over-encumbrance. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide summaries of past rulings that have authorized such sales, including citations to the published decisions that were the basis for such rulings.

Based on the foregoing, the tentative ruling is to set a deadline for Debtor to file one of the following:

(a) A motion to establish comparative valuations of its property (i) with and (ii) without a mobilhome park, with supporting declarations by licensed real estate appraisers, or other professionals, and a brief in support of whatever option Debtor favors, addressing the issues described above.

(b) A proposed plan that would split future profits from the operation or sale of the property among secured creditors, priority creditors, nonpriority unsecured creditors, equity owners, and the Objecting Creditors in some manner that has a plausible chance of consensual or nonconsensual confirmation.

(c) Some other alternative that does not evade the issues described

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CONT... R44 LENDING GROUP, LLC a Delaware Limited Liabilit Chapter 11
above.

The tentative ruling is that if Debtor is unable or unwilling to pursue a viable option within a reasonable time, this case would need to be converted to chapter 7 so that a trustee could attempt to resolve these issues, or alternatively this case would need to be dismissed. Accordingly, the parties are directed to address possible deadlines and a schedule for any opposition papers, any reply, and a hearing.

(2) Deadlines/dates. This case was filed on 5/15/18.

(a) Bar date: 8/14/18 (dkt. 35), timely served (dkt. 38).

(b) Plan/Disclosure Statement (dkt. 121, 122)*: see above.

(c) Continued status conference: 1/7/20 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

R44 LENDING GROUP, LLC a

Represented By
Jeffrey S Shinbrot

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2:19-14137 Zeta Graff

Chapter 7

#2.00 Cont'd hrg re: Motion for Turnover of Property Chapter 7 Trustee's Motion for Order (1) Compelling Debtor Zeta Graff and Those in Possession With Her to Turnover Property of the Estate; (2) Authorizing Trustee to Utilize Services of the United States Marshals to Enforce Court Order; and (3) Authorizing Trustee to Operate Property Pending Sale and to Employ a Leasing Agent and Property Manager in Connection Therewith
fr. 11/5/19, 11/21/19

Docket 127

***** VACATED *** REASON: This matter is scheduled to be heard on
04/07/20 at 2:00 p.m. per parties' Stipulation (dkt. 156)**

Tentative Ruling:

Party Information

Debtor(s):

Zeta Graff

Pro Se

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

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2:19-22321 Timeshare Relief, Inc.

Chapter 7

#3.00 Cont'd hrg re: Motion of Wyndham Vacation Resorts, Inc.
to Dismiss Bankruptcy Case
fr. 12/10/19

Docket 8

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

TIMESHARE RELIEF, INC.

Represented By
William H Brownstein

Trustee(s):

Wesley H Avery (TR)

Pro Se

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2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

Chapter 11

#4.00 Cont'd hrg re: Motion in Individual Ch 11 Case for Order Pursuant to 11 U.S.C. Sec. 363 Setting Budget for Interim Use of Estate Property as Defined in 11 U.S.C. Sec. 1115 fr. 10/29/19, 11/5/19

Docket 60

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling for the status conference (calendar no. 6, 12/17/19 at 2:00 p.m.).

Tentative Ruling for 11/5/19:

Please see the tentative ruling for status conference (calendar no. 3, 11/5/19 at 2:00 p.m.).

Tentative Ruling for 10/29/19:

Please see tentative ruling in status conference (cal. no. 7, 10/29/19 at 1:00 p.m.).

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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2:19-18900 FAME Assistance Corporation, a Non Profit Corp.

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#5.00 Cont'd hrg re: Motion to Use Cash Collateral
fr. 10/29/19, 11/5/19

Docket 51

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling for the status conference (calendar no. 6, 12/17/19 at 2:00 p.m.).

Tentative Ruling for 11/5/19:

Please see the tentative ruling for status conference (calendar no. 3, 11/5/19 at 2:00 p.m.).

Tentative Ruling for 10/29/19:

Appearances required. Deny the (belated) motion re cash collateral (docket no. 51) and only authorize Debtor to use funds to pay the following items in the proposed budget (dkt.51, Ex."A" "1", at p.22):

- (1) non-insider payroll, payroll taxes, benefits, and payroll service,
- (2) consultants whose employment has been authorized by written order of this Court,
- (3) insurance,
- (4) Hanmi Bank adequate protection payments equal to regular monthly payments of principal and interest - not any "loan fees,"
- (5) property repair and maintenance,
- (6) Office expense and supplies, postage, and shipping,
- (7) Permits, property taxes, and licenses,
- (8) telecommunications,
- (9) utilities.

The tentative ruling is that all other expenses are not adequately explained and justified. For example, the proposed budget includes \$108,222 (approximately 2/3 of the total expenses) for "Taxi Vouchers and tokens" plus \$3,155/mo. for "Equipment rental and maintenance," \$3,412/mo. for "Management Fees," and \$5,784/mo. for "Facility cost (rent utilities)." How

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CONT... **FAME Assistance Corporation, a Non Profit Corp.** **Chapter 11**

can any creditors or this Court assess whether those things are "ordinary course" without some explanation? See 11 U.S.C. 363(b).

Has Debtor historically been in the business of providing taxi vouchers to low-income persons to facilitate employment, medical visits, and food? If so, why was this not explained in more detail in the initial status conference report? See *dk.11*. Are those services paid for out of the grants that Debtor receives? Is there any protection of the bankruptcy estate against misuse of such a large amount of transfers? Is the budget for those things consistent with past practices and/or with the expenses of other nonprofits that provide similar services? See *In re Dant & Russell, Inc.*, 853 F.2d 700 (9th Cir. 1988).

In addition, as to those expenditures that are approved, the tentative ruling is not to approve section "8" of the proposed stipulation with Hanmi Bank (*dk. 51, Ex.A*). In that section Debtor purports to waive rights under 11 U.S.C. 364(d) and 506(c), but there is no showing why that would be appropriate and it might be detrimental to creditors. The tentative ruling is, instead, to require that Debtor provide at least 72 hours' advance notice of any proposed expenditure that Debtor believes would qualify for reimbursement under section 506(c), absent exigent circumstances that make such advance notice impossible. In other respects, the tentative ruling is to authorize the use of cash collateral as provided in the stipulation, but subject to the conditions set forth below.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-1.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

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In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues, including any rents and any fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in lodging properties (as all of the foregoing terms are used in 11 U.S.C. 552). Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Limitation on postpetition liens

In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless this order expressly states that the liens granted by this order are intended to attach to different types of collateral from the prepetition collateral. For

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example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506(c), or any "carveout" under 11 U.S.C. 552.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

Movant(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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#6.00 Cont'd Status Conference re: Chapter 11 case
fr. 8/20/19, 9/24/19,10/29/19, 11/5/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances are not required.

(1) Current issues

(a) Budget Motion (dkt. 60) and cash collateral motion (dkt.61) and stipulation (dkt.61, Ex.A), Debtor's supplemental decl (dkt. 88) Grant.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception:* the bar date for creditors Apex Realty, Inc. and BRG Adams, LLC is 8/14/20 (dkt. 78)

(b) Procedures order: dkt. 2 (timely served, dkt.23).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 1/28/20 at 2:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 11/5/19:

Appearances required.

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(1) Current issues

(a) Motion for Relief From Automatic Stay (dkt.37); Opposition (dkt.65); Reply (dkt. 71); and related documents

Grant, as set forth in the tentative ruling for calendar no. 2 (11/5/19 at 2:00 p.m.).

(b) Budget Motion (dkt. 60) and cash collateral motion (dkt.61) and stipulation (dkt.61, Ex.A)

At the hearing on 10/29/19 this Court was persuaded to authorize the use of cash collateral on an interim basis - not because of the adequacy of Debtor's papers but because of the potentially adverse effects on multiple constituencies if this Court were to prohibit the use of cash collateral. This Court declined either to approve or disapprove Debtor's budget: again, Debtor's papers were inadequate, and if Debtor turns out to have been engaging in expenditures out of the ordinary course without authorization, or otherwise improperly managing the budget, that will have consequences. This Court also set a deadline of 11/1/19 at noon for Debtor to file declaration(s) addressing the concerns of this Court and the United States Trustee (as set forth on the record and in this Court's tentative ruling for the 10/29/19 hearing, reproduced below). This Court also directed Hanmi Bank to lodge a proposed order authorizing the use of cash collateral as set forth in that tentative ruling for 10/29/19.

Debtor timely filed the declaration (dkt.74) of its principal, Pastor Edgar E. Boyd, purportedly addressing the above-referenced concerns. The tentative ruling is that Reverend Boyd's declaration does not adequately address how the proposed budget is (or is not) "ordinary course." See *generally In re Dant & Russell, Inc.*, 853 F.2d 700 (9th Cir. 1988). Nor does does Reverend Boyd's declaration adequately project how Debtor will maintain positive cash flow postpetition. The parties should be prepared to address possible remedies.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception*: Per oral order at 9/24/19 hearing, the bar date for creditors Apex Realty, Inc. and BRG Adams, LLC will be set at the hearing on 11/5/19.

(b) Procedures order: dkt. 2 (timely served, dkt.23).

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(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 12/17/19 at 2:00 p.m., *brief* status report due 12/3/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/5/19:

This Court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 10/29/19:

Appearances required

(1) Current issues

(a) Budget Motion (dkt. 60) and cash collateral motion (dkt.61) and stipulation (dkt.61, Ex.A)

Deny, and only authorize a limited use of cash collateral and/or property of the estate as set forth in the tentative ruling for calendar no. 5 (10/29/19 at 1:00 p.m.).

Proposed orders: Debtor is directed to lodge proposed orders on each of the foregoing motions via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(b) Monthly Operating Report, for 9/30/19 ("MOR," dkt.69)

Debtor's MOR raises a number of concerns. First, the first page lists a very large monthly net loss and a large negative ending balance. Second, Debtor's report of postpetition accounts receivable (dkt.69, at PDF p.36) lists aging that exceeds the entire duration of this case: how can that be so? Third, Debtor reports payments of insider compensation, allegedly pursuant to

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order(s) from 2017 (dkt.69, at PDF p.38) but this case was not filed until 2019. Later the MOR asserts, "Insider compensation forms previously served. No objections." (dkt.69, at PDF p.41) But this Court's review of the docket did not disclose any proof of service of any such notices. Fourth, the MOR reports (dkt.69, at PDF pp.34-35) that Debtor is delinquent in real property taxes and UST fees. In sum, the MOR paints a bleak and internally inconsistent picture.

(c) Remedies?

As set forth in this Court's procedures order (dkt.2), this Court can make case-dispositive rulings at any status conference, among other things. What remedies are appropriate to address the foregoing concerns?

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26). *Exception:* Per oral order at 9/24/19 hearing, the bar date for creditors Apex Realty, Inc. and BRG Adams, LLC will be set at the hearing on 11/5/19.

(b) Procedures order: dkt.2 (timely served, dkt.23).

(c) Plan/Disclosure Statement*: TBD

(d) Continued status conference: 11/5/19 at 2:00 p.m., concurrent with other matters in this case; no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/24/19:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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(1) Current issues

(a) Missing status report

As of the time this tentative ruling has been prepared, no status report is on file. Why Not?

(b) Missing budget motion

At the 8/20/19 status conference this Court directed the Debtor to file a budget motion. As of the time this tentative ruling has been prepared, the docket does not reflect that the Debtor has complied. Why not?

(c) Cash collateral

At the 8/20/19 status conference, this Court expressed serious concerns about Debtor's possible use of cash collateral without the consent of its lender. What is the status of the Debtor's negotiations with its lender re cash collateral?

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (dkt. 24; timely served, dkt. 26).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 10/29/19 at 1:00 p.m., *brief* status report due 10/15/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/20/19:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Service of order setting principal status conference

This Court's order setting principal status conference (dkt. 2) required

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Debtor to serve this order on all parties in interest and file a proof of service at least 14 days before the principal status conference. As of the drafting of this tentative ruling, the docket does not reflect such service. Was the order served?

(b) Missing budget motion

Debtor's status report states that Debtor has not yet filed a budget motion but "will do so if necessary." Dkt. 11 at p.3. Per the posted Procedures of Judge Bason (available at cacb.uscourts.gov), budget motions are required in all Chapter 11 cases.

(c) Cash collateral

Debtor indicates that it will meet and confer with its lender re cash collateral. Dkt. 11 at p.3. What is the status of those negotiations?

Pending lender approval, how has Debtor continued to operate its business since filing? Has Debtor been using cash collateral without authorization? Has Debtor been holding the rent money it has received in a separate account?

(d) Interim arbitration award

Debtor should be prepared to apprise the court of the details surrounding the interim arbitration award, including the nature of the dispute, how Debtor intends to contest the award, and what approach to the award is in the best interests of creditors.

(2) Deadlines/dates. This case was filed on 7/31/19.

(a) Bar date: 10/25/19 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: TBD

(c) Continued status conference: 9/24/19 at 1:00 p.m., *brief* status report due 9/17/19.

*Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Party Information

Debtor(s):

FAME Assistance Corporation, a

Represented By
Peter T Steinberg

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2:19-10762 Koi Design LLC

Chapter 11

Adv#: 2:19-01135 Koi Design LLC v. Strategic Partners, Inc.

#7.00 Cont'd Status Conference re: Complaint for Avoidance
of Judicial Liens and Declaratory Relief
fr. 7/16/19, 7/30/19, 9/24/19, 10/15/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling for the main case status conference (calendar no. 9, 12/17/19 at 2:00 p.m.).

Tentative Ruling for 10/15/19:

Please see the tentative ruling in the status conference in the main case (calendar no. 24, 10/15/19 at 1:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling in the status conference in the main case (calendar no. 12, 9/24/19 at 1:00 p.m.).

Tentative Ruling for 7/30/19:

Please see the tentative ruling in the status conference in the main case (calendar no. 8, 7/30/19 at 1:00 p.m.).

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

Defendant(s):

Strategic Partners, Inc.

Represented By
Howard Camhi

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Plaintiff(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10762 Koi Design LLC

Chapter 11

#8.00 Combined hrg re: (1) Approval of Disclosure Statement
and (2) Plan Confirmation

Docket 209

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 9,
12/17/19 at 2:00 p.m.).

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Sefflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10762 Koi Design LLC

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/30/19, 02/13/19, 03/05/19, 3/26/19, 4/9/19,
4/22/19, 5/14/19, 6/11/19, 7/30/19, 9/24/19, 10/15/19,
11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Debtor's chapter 11 plan of reorganization (dkt. 208) & disclosure statement (dkt. 209), Marron Lawyers, APC's ("Marron") reservation of rights (dkt. 225), Seflin declaration & ballot summary (dkt. 228)

Approve the disclosure statement under 11 U.S.C. 1125, approve Debtor's settlement with Strategic Partners, Inc., and confirm the plan under 11 U.S.C. 1129(a) because all impaired classes have voted to accept the plan (see ballot summary, dkt. 228), subject to modification of the proposed order's language regarding alleged consent to releases and injunctions (see dkt.231, pp.3-4 and p.20:2-4). The tentative ruling is that accepting distributions under the plan is not the same as consent to these proposed provisions of the plan and the confirmation order; but that each party in interest who has not objected to the language of the plan regarding releases and injunctions (*i.e.*, all parties) have waived and/or forfeited such objections, in addition to the protections that the Bankruptcy Code provides anyway, *e.g.*, 11 U.S.C. 1125(e) and 1141(a).

In addition, this Court will review with the parties whether there should be separate orders (i) approving the Disclosure Statement on a final basis and (ii) confirming the Plan.

To the extent Marron's reservation of rights is a request for inclusion of any specific language in the confirmation order, that request is overruled for the reasons stated in the Seflin declaration (dkt. 228, p.3:26-P.4:3).

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

Koi Design LLC

Chapter 11

(b) Koi v. Strategic Partners, Inc. Adv. Proc. (Case No. 2:19-ap-01135-

NB)

Continue status conference to the date set forth below. If the proceeding is dismissed pursuant to the parties' settlement in advance of the continued date, this matter will go off calendar.

(2) Deadlines/dates. This case was filed on 1/25/19.

(a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19, dkt. 82).

(b) Procedures order: dkt. 39 (timely served, dkt. 91)

(b) Plan/Disclosure Statement (dkt. 208, 209): see above.

(c) Post-Confirmation status conference: 3/3/20 at 1:00 p.m., *brief* written status report due 2/18/20.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Correction to Tentative Ruling for 11/12/19:

Appearances ARE required.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/12/19:

Appearances are not required on 10/15/19.

(1) Current issues

(a) Debtor's chapter 11 plan of reorganization (dkt. 208) & disclosure

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

CONT... **Koi Design LLC**
statement (dkt. 209)

Chapter 11

This Court will review these documents on a preliminary basis, and anticipates setting a deadline for any blacklined changes to be filed, and setting a combined hearing on whether to approve the disclosure statement and confirm the Plan.

- (2) Deadlines/dates. This case was filed on 1/25/19.
- (a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19, dkt. 82).
 - (b) Procedures order: dkt. 39 (timely served, dkt. 91)
 - (b) Plan/Disclosure Statement (dkt. 208, 209)*: This Court anticipates setting deadlines and procedures at the hearing.
 - (c) Continued status conference: 12/17/19 at 1:00 p.m., *brief* written status report due 12/3/19.
- *Warning: special procedures apply (see order setting initial status conference).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/15/19:
Appearances are not required on 10/15/19.

- (1) Current issues
This Court has no issues to raise *sua sponte* at this time.
- (2) Deadlines/dates. This case was filed on 1/25/19.
- (a) Bar date: 5/17/19 (dkt. 65) (served 2/22/19, dkt. 82).
 - (b) Plan/Disclosure Statement*: TBD (see dkt.199, order extending exclusivity).
 - (c) Continued status conference: 12/17/19 at 1:00 p.m., *brief* written status report due 12/3/19.
- *Warning: special procedures apply (see order setting initial status

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

CONT...

Koi Design LLC
conference).

Chapter 11

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Koi Design LLC

Represented By
Susan K Seflin
Jessica L Bagdanov

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

#10.00 Cont'd hrg re: Motion to dismiss first amended complaint
fr. 11/5/19

Docket 47

***** VACATED *** REASON: Motion resolved by Memorandum Decision
(adv. dkt. 67)**

Tentative Ruling:

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

National Default Servicing

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

CONT... Juvernaldo Cordon Cruz

Chapter 11

BSI Financial Services, Inc.

Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Movant(s):

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

#11.00 Cont'd hrg re: Bank of America, N.A.'s motion to
dismiss first amended complaint
fr. 11/5/19

Docket 50

***** VACATED *** REASON: Motion resolved by Memorandum Decision
(adv. dkt. 67)**

Tentative Ruling:

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

CONT... Juvernaldo Cordon Cruz
National Default Servicing

Chapter 11

Represented By
Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:14-24085 Juvernaldo Cordon Cruz

Chapter 11

Adv#: 2:19-01103 Cruz v. BANK OF AMERICA, N.A. et al

#12.00 Cont'd status conference re: Complaint for (1) Wrongful Foreclosure;
(2) Violation of California Civil Code § 2934a(a)(1)(A)(C)(D);
(3) Intentional Misrepresentation; (4) Negligent Misrepresentation;
(5) Violation of California Business & Professions Code § 17200, Et Seq.;
(6) Violation of Homeowner Bill of Rights ("HBOR"); (7) Breach of Contract;
(8) Fraud; (9) False Promise; (10) Intentional Infliction of Emotion Distress;
(11) Negligent Infliction of Emotional Distress; (12) Declaratory Relief;
(13) Violation of Automatic Stay
fr. 7/30/19, 8/20/19, 10/1/19, 11/5/19

Docket 1

***** VACATED *** REASON: Adversary dismissed**

Tentative Ruling:

Party Information

Debtor(s):

Juvernaldo Cordon Cruz

Represented By
Michael E Mahurin
Dennise S Henderson

Defendant(s):

BANK OF AMERICA, N.A.

Represented By
Adam N Barasch
Nichole Glowin
Robert P Zahradka
Dennise S Henderson

FAY SERVICING, LLC

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Wilmington Savings Fund Society,

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

CONT... Juvernaldo Cordon Cruz

Chapter 11

Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

National Default Servicing

Represented By
Robert P Zahradka
Adam N Barasch
Nichole Glowin
Dennise S Henderson

BSI Financial Services, Inc.

Represented By
Nichole Glowin
Adam N Barasch
Robert P Zahradka
Dennise S Henderson

Plaintiff(s):

Juvernaldo Cordon Cruz

Represented By
Dennise S Henderson
Adam N Barasch
Nichole Glowin
Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#13.00 Hrg re: Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc. with the Within Case of Attitude Marketing, Inc.

Docket 66

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#14.00 Hrg re: Motion for Admission of Excerpts from the Deposition of John Peter Edwin Burry Taken on March 18, 2019 in Support of Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc., with the Within Case of Attitude Marketing, Inc.

Docket 72

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#15.00 Hrg re: Motion for Admission of Excerpts from the deposition of Charles Morris taken on March 27, 2019 in Support of Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc., with the within case of Attitude Marketing, Inc.

Docket 73

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#16.00 Hrg re: Motion for Admission of Excerpts from the deposition of David Macmillan taken on October 2, 2014 in Support of Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc., with the within case of Attitude Marketing, Inc.

Docket 74

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#17.00 Hrg re: Motion for Admission of Excerpts from the deposition of David Macmillan taken on January 9, 2019 in Support of Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc., with the within case of Attitude Marketing, Inc.

Docket 75

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#18.00 Hrg re: Motion for Admission of Excerpts from the deposition of Glenn Chaffin taken on January 24, 2019 in Support of Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc., with the within case of Attitude Marketing, Inc.

Docket 76

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#18.10 Hrg re: Motion for admission of excerpts from the deposition of Glenn Chiffin taken on January 24, 2019 in support of reply to opposition to motion for order for substantive consolidation of the non-debtor company, Aston Business Solutions, Inc., with the within case of Attitude Marketing, Inc.

Docket 95

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#18.20 Hrg re: Errata to Motion for Admission of Excerpts from the Deposition of Glen Chaffin taken om January 24, 2019 in Support of Reply to Opposition to Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc. with the Within Case of Attitude Marketing, Inc. Including pages from Deposition Inadvertently left out

Docket 101

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#19.00 Hrg re: Motion for Admission of Excerpts from the deposition of Glenn Chaffin taken on February 21, 2019 in Support of Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc., with the within case of Attitude Marketing, Inc.

Docket 77

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#19.10 Hrg re: Motion for admission of excerpts from the deposition of Eric Andrew Malloch taken on March 6, 2019 in support of reply to opposition to motion for order for substantive consolidation of the non-debtor company, Aston Business Solutions, Inc. with the within case of Attitude Marketing, Inc.

Docket 96

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#19.20 Hrg re: Motion for Admission of Excerpts from the Deposition of Charles William Morris, Esq. Taken on March 27, 2019 in Support of Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc., with the within case of Attitude Marketing, Inc. with Redactions

Docket 99

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#19.30 Hrg re: Motion for Admissions of Excerpts from the Deposition of Glenn Chaffin taken on february 21, 2019 in Support of Motion for Order for Substantive Consolidation of the Non-Debtor Company, Aston Business Solutions, Inc., with the Within Case of Attitude Marketing, Inc with Redaction's

Docket 97

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 20, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim
James A Dumas Jr

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:19-10552 Attitude Marketing, Inc.

Chapter 7

#20.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19;
08/06/19, 8/20/19, 9/24/19, 11/12/19

Docket 43

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 23, 12/17/19 at 2:00 p.m.)

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 11/12/19 at 2:00 p.m.)

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 13, 9/24/19 at 2:00 p.m.)

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 8/20/19 at 2:00 p.m.)

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 7/2/19 at 2:00 p.m.)

Tentative Ruling for 6/4/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 6/4/19 at 2:00 p.m.)

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

CONT... Attitude Marketing, Inc.

Chapter 7

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 12, 5/21/19 at 2:00 p.m.)

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 4, 4/30/19 at 11:00 a.m.)

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 10, 4/9/19 at 11:00 a.m.)

Party Information

Debtor(s):

Attitude Marketing, Inc.

Represented By
James A Dumas Jr
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Christian T Kim

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#21.00 Cont'd hrg re: Wyndham Vacation Resorts, Inc.'s Motion to Compel
Florance Communciations, Inc. to Produce Documents and Related Relief
fr. 12/10/19

Docket 425

Tentative Ruling:

Please see the tentative ruling for the case status conference for the
MacMillan/Martin bankruptcy case (calendar no. 23, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, December 17, 2019

Hearing Room 1545

2:00 PM

2:16-21559 David MacMillan

Chapter 7

#22.00 Cont'd hrg re: Motion to Consolidate Lead Case Debtor
Attitude Marketing, Inc. with Non-Debtor Aston Business
Solutions, Inc.
fr. 12/10/19

Docket 422

Tentative Ruling:

Please see the tentative ruling for the case status conference for the
MacMillan/Martin bankruptcy case (calendar no. 23, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

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**United States Bankruptcy Court
Central District of California
Los Angeles
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#23.00 Cont'd Status Conference re: Chapter 7 Case
fr. 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19
08/06/19, 8/20/19, 9/24/19, 11/12/19

Docket 332

Tentative Ruling:

Tentative Ruling for 12/17/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Calendaring

Continue the following matters to 1/28/20 at 2:00 p.m., with no status reports required:

(i) Status Conference, *In re Attitude Marketing, Inc.* (Case No. 2:19-bk-10552-NB) (calendar no. 20, 12/17/19 at 2:00 p.m.).

(ii) Status Conference, *In re David MacMillan/Cynthia Martin* (Case No. 2:16-bk-21559-NB) (this calendar no. 23, 12/17/19 at 2:00 p.m.).

(iii) Status Conference, *Wyndham Vacation Resorts, Inc. v. Cynthia Barrett Martin* (Case No. 2:17-ap-01551-NB) (calendar no. 25, 12/17/19 at 2:00 p.m.)

(iv) Status Conference, *Gonzalez v. MacMillan et al* (Case No. 2:16-ap-01545-NB) (calendar no. 26, 12/17/19 at 2:00 p.m.).

(v) Status Conference, *Wyndham Vacation Resorts, Inc. v. MacMillan et al* (Case No. 2:17-ap-01229) (calendar no. 27, 12/17/19 at 2:00 p.m.)

(b) Wyndham's Motion to Substantive Consolidate Attitude with ABS ("Wyndham Substantive Consolidation Motion," In re David MacMillan, Case No. 2:16-bk-21559-NB, dkt. 422) and supporting documents (dkt. 423, 427); Chapter 7 Trustee's Motion to Substantively Consolidate Non-Debtor Aston Business Solutions, Inc. ("ABS") with Attitude Marketing, Inc. ("Attitude") ("Trustee Substantive Consolidation Motion," In re Attitude Marketing, Inc.,

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Case No. 2:19-bk-10552-NB, dkt. 66, 67) and supporting documents (dkt. 68-71) (collectively "Substantive Consolidation Motions"); ABS Opposition (dkt. 86) and supporting documents (dkt. 87-89) in response to Substantive Consolidation Motions; Trustee's reply (dkt. 92) and supporting documents (dkt.93-94); Wyndham's reply (In re David MacMillan, Case No. 2:16-bk-21559-NB, dkt. 442)

The tentative ruling is to deny the motions for substantive consolidation, for the reasons set forth below. Before reaching the merits, however, this Court addresses various motions for admission of evidence.

(i) Chapter 7 Trustee's motions for admission of excerpts of depositions of John Peter Edwin Burry (In re Attitude Marketing, Inc., Case No. 2:19-bk-10552-NB, dkt. 72), Charles Morris (dkt. 73), David MacMillan taken October 2, 2014 (dkt. 74), David MacMillan taken January 9, 2019 (dkt. 75), Glenn Chaffin taken January 24, 2019 (dkt. 76), Glenn Chaffin taken February 21, 2019 (dkt. 77, 97), and Eric Malloch (dkt. 96) in support of his Substantive Consolidation Motion (collectively, the "Motions for Admission of Deposition Excerpts")

Grant.

Proposed order: The Chapter 7 Trustee is directed to lodge a proposed order on each of the Motions for Admission of Deposition Excerpts via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(ii) Chapter 7 Trustee's motions for admission of excerpts of depositions of Glenn Chaffin taken 1/24/19 (In re Attitude Marketing, Inc., Case No. 2:19-bk-10552-NB, dkt. 95, 101), Andrew Malloch (dkt. 96), Glenn Chaffin taken 2/21/19 (dkt. 97), and Charles Morris, Esq. (dkt. 99)

Grant, subject to any opposition at the hearing.

Proposed order: The Chapter 7 Trustee is directed to lodge a proposed order on each of the Motions for Admission of Deposition Excerpts via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(iii) Wyndham's motion for admission and request for judicial notice (In re David MacMillan, Case No. 2:16-bk-21559-NB, dkt. 444)

Grant, subject to any opposition at the hearing.

Proposed order: Wyndham is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(iv) Merits of the Substantive Consolidation Motions

(iv) Merits of the Substantive Consolidation Motions

For the reasons set forth below, the tentative ruling is to deny the

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Substantive Consolidation Motions.

(A) Background

On October 30, 2019, Wyndham filed its Substantive Consolidation Motion in the David MacMillan ("MacMillan") bankruptcy case. MacMillan, dkt. 422. On November 26, 2019, the Chapter 7 Trustee filed his Substantive Consolidation Motion in the Attitude bankruptcy case. Attitude, dkt. 66 & 67. On December 4, 2019, ABS filed its opposition in response to the Substantive Consolidation Motions. Attitude, dkt. 86. On December 10, 2019, Wyndham filed its reply (MacMillan, dkt. 442), as did the Chapter 7 Trustee (Attitude, dkt. 92).

(B) Legal Standards

In broad terms, when ordering substantive consolidation, courts must "(1) consider whether there is a disregard of corporate formalities and commingling of assets by various entities; and (2) balance the benefits that substantive consolidation would bring against the harms that it would cause." *In re Bonham*, 229 F.3d 750, 765 (9th Cir. 2000) (internal quotation and citation omitted).

The Ninth Circuit has adopted the Second Circuit's test for substantive consolidation, which requires the consideration of two factors:

- (1) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or
- (2) whether the affairs of the debtor are so entangled that consolidation will benefit all creditors. [*Id.* at 766 (internal quotation and citation omitted)]

The presence of either factor is sufficient to order substantive consolidation. *Id.* Consolidation under the second factor is justified only where "the time and expense necessary to even attempt to unscramble them [debtor's affairs] is so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible." *Id.* (internal quotation omitted). Substantive consolidation should be used "sparingly." *Id.* at 767.

(C) Analysis

(I) Wyndham has standing to proceed with its Substantive Consolidation Motion

Creditors have standing to move for substantive consolidation. *In re*

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Lahijani, 2005 WL 4658490, *3 (Bankr. C.D. Cal. 2005).

In its opposition, ABS argues that because Wyndham is neither a creditor of Attitude, David MacMillan, nor ABS, Wyndham does not have standing to proceed with its motion. Attitude, dkt. 86, p.6, para. 32. In its reply, Wyndham argues that it is a creditor of Attitude and has standing. *Id.* at dkt. 442, p.3:8-p.4:22.

The bankruptcy code defines "creditor" as, among other things, an "entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor." 11 U.S.C. § 101(10)(A). The bankruptcy code defines "claim" as:

(A) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured. [11 U.S.C. § 101(5)]

Wyndham has filed a proof of claim in both the David MacMillan and Attitude bankruptcy cases related to alleged pre-petition violations of a settlement agreement. MacMillan, Claim No. 3; Attitude, Claim No. 1. Neither proof of claim has been disallowed. ABS cited no authority for its proposition that Wyndham is not a creditor.

Therefore, Wyndham is a creditor and has standing to proceed with its Substantive Consolidation Motion.

(II) Trustee's Substantive Consolidation Motion was not properly served, and it is unclear whether Wyndham's Substantive Consolidation Motion was properly served

The party moving for substantive consolidation must provide notice of the motion to the creditors of a putative consolidated non-debtor. *In re Mihranian*, 937 F.3d, 1214, 1218 (9th Cir. 2019).

In its opposition, ABS states that because its creditors were not served, the Substantive Consolidation Motions cannot be considered.

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Attitude, dkt. 86, p.6, para. 32. ABS goes on to state that the creditors of Attitude and ABS are unknown. *Id.* at para. 36. In its motion, Wyndham states that that it served all known creditors of ABS with the Substantive Consolidation Motion, and if an existing creditor of ABS was not served, Wyndham will serve the Substantive Consolidation Motion on any such creditor identified by ABS. MacMillan, dkt. 422, p.49:18-26. The Trustee does not address service of ABS creditors. In its reply, Wyndham explains that it has been made aware of one additional creditor by ABS's counsel, but that ABS's counsel has not provided the creditor's address. *Id.* at dkt. 442, p.9-21.

Should this Court be persuaded to continue the hearing on the Substantive Consolidation Motions rather than deny them, the parties should be prepared to address (1) what investigation needs to be made into who the creditors of ABS are, and (2) what happens if there is a lack of certainty as to whether all creditors of ABS were served.

(III) Neither Wyndham nor the Trustee have met their burden of establishing that creditors dealt with Attitude and ABS as a single economic unit and did not rely on their separate identity in extending credit

Wyndham's Substantive Consolidation Motion states that "creditors state that they dealt with Attitude Marketing and Aston Business Solutions as if they were the same." MacMillan, dkt. 422, p.4:21-22. Wyndham explains that Glenn Chaffin used an Aston Marketing Group email address in connection with ABS (*id.* at p.18:3-4), that David MacMillan did work on behalf of Attitude using an ABS signature block (*id.* at p.38:14-19), and that employees of different MacMillan companies and ABS used various e-mail addresses for the various entities interchangeably, while representing that they worked for different entities at different times (*id.* at p.27:8-10). Further, Wyndham has presented evidence that Attitude employees performed work on behalf of ABS (*id.* at p.25:15-19), and that the same individual did all the accounting and tax returns for the MacMillan companies and ABS (*id.* at p.27:14-24; p.37:14-20). Southbay Document Destruction ("Southbay"), a company used by both Attitude and ABS to dispose of records, noted in an email that Timeshare Relief changed names frequently and became ABS. *Id.* at p.39:12-14. Nevada National Advertising, Inc., a company that executed a

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contract with ABS, filed a lawsuit in which they state that they believe ABS and Aston Marketing Group are alter egos of David MacMillan and/or Cynthia Martin and/or Glenn Chaffin. *Id.* at p.40:4-10. Lastly, Wyndham has presented evidence that individuals from Castle Law Group, P.C. ("Castle Law") and its affiliate Castle Marketing Group, LLC ("Castle Marketing"), companies that contracted with ABS, met with David MacMillan and Cynthia Martin ("MacMillans") who represented that they were acting on behalf of ABS (*id.* at p.21:7-8; p.22:13-15) and entered into agreements with those companies through ABS and Attitude (*id.* at p.21:9-11). The President and CEO of Castle Marketing believed that the MacMillans owned, operated, controlled, and/or were authorized representatives and agents of ABS. *Id.* at p.25:25-p.26:5. When Castle Law decided to end the business relationship with ABS, they informed David MacMillan. *Id.* at p.38:21-25.

The Trustee also notes the use of an Aston Marketing Group email address by the MacMillans and the individuals working with them. Attitude, dkt. 67, p.5:18-24. Various senior employees would be referred to as the CEO or CFO as if there was one consolidated company. *Id.* The Trustee also explains that although there was a large enterprise with different managers for different departments in the various companies, it was understood that the ultimate bosses were the MacMillans. *Id.* at p.6:24-26. The clients knew little, if anything, about the broader MacMillan operation. *Id.* at p.11:5-7. Lastly, ABS was listed on an addendum to a retainer fee as being one of the Timeshare Relief Parties. *Id.* at p.20:27-p.21:1.

Neither Wyndham nor the Trustee provided evidence of how the above facts impacted how creditors dealt with Attitude and ABS in extending credit. For example, while the individuals contracting on behalf of Castle Marketing and Castle Law may have understood the MacMillans to be operating or owning ABS, that is not evidence that they relied on ABS being a part of Attitude in entering into contracts with ABS. The same can be said for the use of email addresses for work not necessarily related to the entity whose email address was being used – that is not evidence that creditors who may have received the emails, for example, extended credit based on their understanding that ABS and Attitude were a single economic unit. Lastly, while the views of Attitude and ABS employees about the structure of the MacMillan enterprise might show that the MacMillans and Glenn Chaffin were

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not as careful as they could have been in distinguishing between multiple entities, that is separate matter from how creditors viewed the relationship between the two companies.

The tentative ruling is that neither Wyndham nor the Trustee have met their burden of proof as to this factor.

(IV) Neither Wyndham nor the Trustee have met their burden of establishing that the affairs of the debtor are so entangled that consolidation will benefit all creditors

Wyndham has provided evidence of the entangled affairs of ABS and Attitude and other MacMillan entities, particularly the finances of the companies. For example, Attitude has paid bills attributable to ABS (MacMillan, dkt. 422, p.17:6-8; p.28:7-12), David MacMillan has made payments on behalf of ABS to Castle Law (*id.* at p.24:21-p.25:11), operating expenses of ABS and Attitude were paid from an Attitude bank account (*id.* at p.33:15-22), and Attitude incurred debt for ABS (*id.* at p.34:9-25). In addition, Wyndham has provided evidence of a lack of documentation of the relationship between Attitude and ABS, and other MacMillan entities. For example, there is no lease or proof of rent being paid by ABS (*id.* at p.17:14-16; p.32:9-12) or Attitude (*id.* at p.13:4-5; p.32:9-12), no agreement establishing that ABS was a client of Attitude (*id.* at p.26:13-21; p.28:23-p.29:6), and no documentation surrounding a loan between Attitude and ABS (*id.* at p.35:5-14). Lastly, prior to 2017 an ABS mass mailer had an 800 number that was forwarded to the Attitude call center (*id.* at p.30:10-12), and Mr. Karen, the long-time attorney of various MacMillan entities, did not distinguish between ABS and other MacMillan entities in an invoice (*id.* at p.36:19-24).

The Trustee provides some additional facts that show the affairs of ABS and Attitude were entangled. Attitude provided payroll services, IT support, and other services to ABS, but the financial records that are available do not make it clear who wrote the check to particular employees or contractors. Attitude, dkt. 67, p.14:12-24. ABS operated in the same office as Attitude, used Attitude's employees, call center, the same independent contractors, and the same business assets. *Id.* at p.15:8-12. Attitude sold the customer data base to ABS (*id.* at p.15:24-p.16:2), allegedly formed so that Erica Martin could pursue an event planning business, but Glenn Chaffin

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would use the data base for internet marketing (*id.* at p.17:12-20). Glenn Chaffin purchased the ABS shares from Erica Martin for no consideration (*id.* at p.17:24-p.18:1), but at the same time was running Attitude and receiving a salary from ABS (*id.* at p.18:9-17). MacMillan was understood to be the "mastermind," who was teaching and supervising the ABS operation and setting strategy. *Id.* at p.19:16-22. As explained by Wyndham, the lease between ABS and Marmac for the office space is missing (*id.* at p.26:13-16), and there is confusion over which employees worked for which entity (*id.* at p.27:6-18). Lastly, the Trustee explains how rent payments were spread across various companies, including Attitude and ABS, rather than reflecting a typical landlord/tenant relationship. *Id.* at p.22:3-17.

While there is clear evidence of commingling of assets and business functions in the instant case, neither Wyndham nor the Trustee have established that the affairs of Attitude are so entangled that the time and expense necessary to even attempt to unscramble them is so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible, or that consolidation with ABS will benefit all creditors. Both Wyndham and the Trustee point to a lack of financial records that would provide clarity about the financial affairs of the two companies. A lack of records does not mean that the affairs of the two companies cannot be untangled; it is possible that if the records were produced, and a forensic accountant were given access to the records, for example, that the affairs could be sorted out. The Trustee's explanation of how the obligation to pay rent was shifted from one company to the next is an example of how the affairs of Attitude and ABS are tangled but, perhaps, can be untangled. Lastly, neither of the Substantive Consolidation Motions address why substantive consolidation of Attitude with ABS would benefit all creditors, which is particularly important because the main asset of ABS appears to be the customer list, which is of unknown value.

The tentative ruling is that neither Wyndham nor the Trustee have met their burden of proof as to this factor.

(D) Conclusion

For the reasons set forth above, the tentative ruling is to deny the Substantive Consolidation Motions.

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Movants are directed to lodge a proposed order via LOU within 7 days after the hearing date on their respective motions, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

(c) Wyndham Vacation Resorts ("Wyndham") Motion to Compel Florance Communications, Inc. ("Florance") to Produce Documents ("Motion to Compel," In re David MacMillan, Case No. 2:16-bk-21559-NB, dkt. 425)
Grant.

Proposed order: Wyndham is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

(d) Order to Show Cause ("OSC," In re David MacMillan, Case No. 2:16-bk-21559-NB, dkt. 428)

Florance should be prepared to address this issues raised in the OSC.

(e) Status Conference, Wyndham Vacation Resorts, Inc. v. MacMillan et al (Case No. 2:17-ap-01229)

This Court's Order Regarding (A) Fee Award And (B) Oral Motion to Enforce Written Order and Compel Production of General Ledger (adv. dkt. 161) provided that Wyndham could submit a supplemental declaration in support of its fees incurred in connection with subsequent work done on its motion to compel Aston to produce documents (the "Motion to Compel," adv. dkt. 104, 105). Wyndham timely filed its supplemental declaration (adv. dkt. 164). ABS did not file a response to Wyndham's declaration by the November 26, 2019 deadline.

Wyndham requests an additional \$6,859.00 in fees. Adv. dkt. 164, Ex. A at PDF p.5. Among Wyndham's requested fees, there are three entries for court appearances - 6/18/19 for \$637.50; 9/24/19 for \$501.50; and 9/24/19 for \$850.00. *Id.* at PDF pp. 6 & 9. As those entries relate to court appearances that are separate from work related to the Motion to Compel, the are not properly charged to ABS as a discovery sanction.

ABS is directed to pay Wynhdam an additional \$4,870.00 in discovery sanctions.

Proposed order: Wyndham is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any

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changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[Prior tentative rulings omitted]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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Adv#: 2:19-01156 Gonzalez v. Karen et al

#24.00 Cont'd Status Conference re: Complaint to Avoid and Recover Preferential Transfer [11 U.S.C. sections 547(b), 550, 551] fr. 7/30/19, 9/24/19, 10/29/19, 12/10/19

Docket 1

***** VACATED *** REASON: Cont'd 1/14/2020 at 11:00 a.m. per stipulation (adv. dkt. 22) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David M. Karen

Represented By
Keith S Dobbins

DK Law Group, LLP

Represented By
Keith S Dobbins

Plaintiff(s):

Rosendo Gonzalez

Represented By
Christian T Kim
James A Dumas Jr

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

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Adv#: 2:17-01551 Wyndham Vacation Resorts, Inc. v. Martin

#25.00 Cont'd Status Conference re: Complaint Objecting to Discharge of Cynthia Barrett Martin
fr. 01/09/18, 1/30/18, 4/9/19; 04/30/19, 05/21/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19, 11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling for the status conference in the related adversary proceeding (calendar no. 27, 12/17/19 at 2:00 p.m.).

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the status conference in the related adversary proceeding (calendar no. 17, 11/12/19 at 2:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the status conference in the related adversary proceeding (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 18, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 18, 7/2/19 at 2:00 p.m.).

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Tentative Ruling for 6/4/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 9, 6/4/19 at 2:00 p.m.).

Tentative Ruling for 5/21/19:

Please see the tentative ruling for the adversary proceeding with which this proceeding is being jointly administered (calendar no. 14, 5/21/19 at 2:00 p.m.).

Tentative Ruling for 4/30/19:

Please see the tentative ruling for the adversary proceeding this proceeding is being jointly administered with (calendar no. 5, 4/30/19 at 11:00 a.m.).

Tentative Ruling for 4/9/19:

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

Tentative Ruling for 1/30/18:

Appearances required. The court has reviewed the parties' filed documents and records in this adversary proceeding. The parties must address (a) why they failed to file the required status report, (b) why the motions for joint administration/consolidation of the two closely related adversary proceedings have not been prosecuted, and (c) the following issues. The following are Judge Bason's standard requirements for status conferences.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure

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to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not formalize the fact that the pending mediation includes this adversary proceeding by issuing an order to mediate this matter together with related adversary proceeding (2:17-ap-01229-NB)? The tentative ruling is to direct counsel for the defendants to lodge a proposed order to that effect.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

Cynthia Barrett Martin

Represented By
Robert S Altagen

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Brian C. Vanderhoof
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By

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James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

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Adv#: 2:17-01545 Gonzalez v. Macmillan et al

#26.00 Cont'd Status Conference re: Complaint Objecting to Debtor's Discharge and for Fraudulent Transfer fr. 1/23/18, 2/27/18, 03/06/18, 4/17/18, 6/12/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 04/09/19, 04/30/19, 5/7/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19, 11/12/19, 12/4/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/7/19:

Please see the tentative ruling for the case status conference for the MacMillan/Martin bankruptcy case (calendar no. 23, 12/17/19 at 2:00 p.m.).

Tentative Ruling for 12/4/19:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Trustee's emergency motion for an order allowing Trustee to ascertain and preserve the status quo condition of Aston Business Solutions, Inc. (adv. dkt. 82)

There is no tentative ruling, but the first issue this Court will address is whether to hear the merits of the motion on such an expedited schedule. Then, if appropriate, this Court will address the merits of the motion and any oral or written opposition and reply.

(2) Status Conference in Adversary Proceeding (2:17-ap-01545-NB)

Continue this status conference to 12/17/19 at 2:00 p.m., to be concurrent with other matters.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[Prior tentative rulings omitted]

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Defendant(s):

David W. Macmillan

Represented By
Robert S Altagen

Cynthia B. Martin

Represented By
Robert S Altagen

Aston Business Solutions, Inc.

Represented By
William H Brownstein

Eric A. Martin

Represented By
William H Brownstein

Glenn J. Chaffin

Represented By
William H Brownstein

Andrae Perez

Pro Se

Accelerated Capital Group, Inc.

Pro Se

Does I through XX

Pro Se

Plaintiff(s):

Rosendo Gonzalez

Represented By
James A Dumas Jr
Christian T Kim

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Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

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2:16-21559 David MacMillan

Chapter 7

Adv#: 2:17-01229 Wyndham Vacation Resorts, Inc. v. MacMillan et al

#27.00 Cont'd Status Conference re: Complaint to Determine Non-Dischargeability of Debt
fr. 06/13/17, 12/19/17, 1/30/18, 02/27/18, 5/8/18, 07/17/18, 08/14/18, 10/9/18, 11/6/18, 12/11/18, 1/29/19, 2/26/19, 3/26/19, 4/9/19, 04/30/19, 05/21/19, 06/04/19, 7/2/19; 08/06/19, 8/20/19, 9/24/19, 11/12/19

Docket 1

Tentative Ruling:

Tentative Ruling for 12/17/19:

Please see the tentative ruling for the main case status conference (calendar no. 23, 12/17/19 at 2:00 p.m.)

Tentative Ruling for 11/12/19:

Please see the tentative ruling for the main case status conference (calendar no. 12, 11/5/19 at 2:00 p.m.).

Tentative Ruling for 9/24/19:

Please see the tentative ruling for the adversary status conference (calendar no. 16, 9/24/19 at 2:00 p.m.).

Tentative Ruling for 8/20/19:

Please see tentative ruling for the adversary status conference (calendar no. 15, 8/20/19 at 2:00 p.m.).

Tentative Ruling for 8/6/19 [N/A: continued to 8/20/19 at 2:00 p.m. by this Court]

Tentative Ruling for 7/2/19:

At the 6/4/19 hearing this Court took the Motion for Summary Judgment (adv. dkt. 98) under submission and anticipates issuing an order at a later time.

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Tentative Ruling for 6/4/19:

[No tentative ruling was posted]

Tentative Ruling for 5/21/19:

Appearances are not required on 5/21/19. The tentative ruling is to continue the hearings in these related adversary proceedings (calendar no. 13 & 14, 5/21/19) to the date of the continued status conference (see below).

(1) Current issues

The tentative ruling on the Motion to Compel (dkt. 104) and the Order to Show Cause ("OSC," dkt. 107) is to continue these matters as requested in the response of Aston Business Solutions, Inc. (dkt. 110, 111). This Court contemplates that the deadlines for completion of discovery and other matters will need to be extended, and the parties are directed to meet and confer and, if they can agree to new deadlines, lodge a proposed order. If they cannot agree, this Court anticipates setting new deadlines at the continued status conference.

(2) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(3) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 6/11/19 at 2:00 p.m. No written status report required.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial

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procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/30/19:

Continue as set forth below. Appearances are not required on 4/30/19.

This Court has reviewed the latest filed documents in this adversary proceeding and is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 5/21/19 at 11:00 a.m., with a brief status report due by 5/7/19.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

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(typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Supplemental Tentative Ruling for 4/9/19:

The original tentative ruling (below) provides two inconsistent dates for a continued status conference: 4/30/19 at 11:00 a.m., 4/7/19 at 11:00 a.m. The latter [should be "former"] is correct. No status report required.

Tentative Ruling for 4/9/19:

Deny the motion to quash (with the possible exception of one aspect), address procedural issues, and then continue this Status Conference, all as set forth below. Appearances required.

Current issues:

(a) Procedures

Please see the tentative ruling for the main case status conference (calendar no. 10, 4/9/19 at 11:00 a.m.)

(b) Motion to Quash (adv. dkt. 84)

The tentative ruling is that the motion to quash (adv. dkt. 84) by Aston Business Solutions, Inc. ("ABS") is unpersuasive, except perhaps for limitations as to time, which the parties are directed to address at the hearing.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling. See LBR 9021-1(b)(1)(B).

(A) Analysis re motion to quash

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ABS asserts only vague objections:

(1) Competitors?

ABS asserts that it and Plaintiff are competitors. How so?

The motion does not even disclose ABS' business. Is it a timeshare owner? Is it a timeshare operator? Is it something else? (As noted below, this Court expects that it has gleaned the answer from other documents, but the tentative ruling is that this lack of even such basic information in the motion is fatal to this argument.)

(2) Protected information?

ABS alleges that some sort of trade secrets or other confidential, privileged, or other type of protected information is involved. What sort of information? Why would a traditional privilege log and other tools be inadequate?

ABS complains that parties in interest in this bankruptcy case have shared information. But ABS fails to point to any prohibition on sharing information.

(3) Burden?

ABS alleges that the requested discovery is unduly burdensome. How so? Is it stored in thousands of boxes of paper files that are difficult to reach and review for some reason?

(4) Vagueness and overbreadth?

ABS alleges that the discovery requests are vague and overbroad. How so? ABS fails to provide any explanation or evidence to support this allegations.

(5) Discussion

Based on a question (not an answer) in excerpts from the deposition of ABS' President and shareholder, Glenn Chaffin, ABS may be a marketing company for "timeshare exit companies." Adv. dkt. 84, Ex.1 (Depo. Tr. 1/24/19), p.95:22-23. But how does that make ABS a "competitor" of Plaintiff, with information that would constitute trade secrets, as opposed to a facilitator of (possibly) legitimate ways to exit timeshares, who sends out non-secret flyers and other publicly known marketing materials, and assists timeshare members in navigating contracts that are known to all the parties?

Such a facilitator theoretically could benefit Plaintiff, by replacing non-paying or troubled members with paying ones - unless, of course, ABS engages in acts that improperly interfere with contractual relations or otherwise assists in the wrongdoing of which Plaintiff accuses Defendants.

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Plaintiff's discovery appears to be targeted at discovering information that could lead to admissible evidence on this and other relevant issues. Accordingly, the discovery appears to be entirely proper and appropriate, with the possible exception of the movant's request to impose some limitations as to time, which the parties are directed to address at the hearing.

(B) Adversary proceeding status conference issues

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Continued status conference: 4/30/19 at 11:00 a.m., no status report required.

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances

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required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/26/19:

Continue as set forth below. Appearances are not required on 3/26/19.

This Court has reviewed the latest filed documents in this adversary proceeding, including the parties' status reports (dkt. 89, 91). This Court is not aware of issues that would warrant a status conference at this time.

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 6/15/19 (adv. dkt. 90).

Expert(s) - deadline for reports: 6/28/19 (adv. dkt. 90).

Expert(s) - deadline for rebuttal reports: 7/26/19 (adv. dkt. 90).

Dispositive motions shall be filed no later than: 8/22/19 (adv. dkt. 90).

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/A

Continued status conference: 4/7/19 at 11:00 a.m., to be concurrent with certain objections to claims (Case No. 2:16-bk-21559-NB, dkt. 310, 312), certain defendants' motion to quash (adv. dkt. 84), and a motion to dismiss the jointly administered bankruptcy case of Attitude Marketing, Inc. (Case No. 2:19-bk-10552; motion filed on the docket in Case No. 2:16-bk-21559-NB, dkt. 307, 318).

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "Trial Practice")
Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/26/19:

This Court has reviewed the parties' joint status reports (dkt. 74, 75) and the other filed documents and records in this adversary proceeding. It appears there is little to address at this status conference, but this Court is requiring appearances to assure that this matter is moving forward. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 6, 11, 24).

(2) Deadlines

This adversary proceeding has been pending since 4/7/17.

Discovery cutoff (for *completion* of discovery): 4/15/19 (adv. dkt. 59).

Expert(s) - deadline for reports: 4/29/19 (adv. dkt. 59).

Expert(s) - deadline for rebuttal reports: 5/27/19 (adv. dkt. 59).

Dispositive motions shall be filed no later than: 7/1/19 (adv. dkt. 59).

Dispositive motions to be heard no later than: TBD

Joint Status Report: 3/12/19.

Continued status conference: 3/26/19 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

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(typically 3 court days before trial) (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "Trial Practice")

Trial commencement: TBD

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/29/19:

Continue to 2/26/19 at 11:00 a.m., in view of the extended deadlines (adv. dkt. 59) and the anticipated motion for joint administration with a case before Judge Russell (adv. dkt. 74). Appearances are not required on 1/29/19.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

[PRIOR TENTATIVE RULINGS OMITTED FOR BREVITY]

Party Information

Debtor(s):

David MacMillan

Represented By

Robert S Altagen

Lamont R Richardson

Defendant(s):

David MacMillan

Represented By

Robert S Altagen

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CONT... **David MacMillan**
Cynthia Barrett Martin

Represented By
Robert S Altagen

Chapter 7

Plaintiff(s):

Wyndham Vacation Resorts, Inc.

Represented By
Michael B Lubic
Daniel M Eliades

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

2:16-21559 David MacMillan

Chapter 7

#28.00 Cont'd Order to Show Cause: Why an Order Should Not
Be Issued Holding Florance in Contempt of Court
fr. 12/10/19

Docket 428

Tentative Ruling:

Please see the tentative ruling for the case status conference for the
MacMillan/Martin bankruptcy case (calendar no. 23, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

2:16-21559 David MacMillan

Chapter 7

#29.00 Hrg re: Motion for Admission and Request for
Judicial Notice in Support of Motion for Order
for Substantive Consolidation of Debtor Attitude Marketing, Inc.
with Nondebtor Aston Business Solutions, Inc.

Docket 444

Tentative Ruling:

Please see the tentative ruling for the case status conference for the
MacMillan/Martin bankruptcy case (calendar no. 23, 12/17/19 at 2:00 p.m.)

Party Information

Debtor(s):

David MacMillan

Represented By
Robert S Altagen
Lamont R Richardson

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
James A Dumas Jr
Christian T Kim

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:11-34162 Jeffrey Mark Freeman

Chapter 13

#1.00 Status conference re: Briefing schedule/Procedures

Docket 270

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in this Court's Order Setting Status Conference (dkt. 297).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jeffrey Mark Freeman

Represented By
James D. Hornbuckle
Mark T Young

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

8:30 AM

2:14-21119 Carlos Roberto Calderon and Rosalva Calderon

Chapter 13

#2.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments
fr. 07/18/19, 8/15/19, 10/24/19

Docket 98

***** VACATED *** REASON: Withdrawal filed 12/18/19 (dkt. 113)**

Tentative Ruling:

Party Information

Debtor(s):

Carlos Roberto Calderon

Represented By
Tamar Terzian

Joint Debtor(s):

Rosalva Calderon

Represented By
James T King
Tamar Terzian

Movant(s):

Carlos Roberto Calderon

Represented By
Tamar Terzian
Tamar Terzian
Tamar Terzian

Rosalva Calderon

Represented By
James T King
James T King
Tamar Terzian
Tamar Terzian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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8:30 AM

2:15-22389 Searcy Maceo Jackson, III and Kimyata Sharice Jackson

Chapter 13

#3.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

Docket 140

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Trustee's motion (dkt. 140) and Debtors' opposition (dkt. 146).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Searcy Maceo Jackson III

Represented By
Kevin T Simon

Joint Debtor(s):

Kimyata Sharice Jackson

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:17-18086 Diane Turner Gates and Steven Robert Gates

Chapter 13

#4.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)
and (w) to modify plan or suspend plan payments

Docket 63

Tentative Ruling:

Appearances required. There is no tentative ruling, but the trustee should be prepared to address whether debtors' reply (dkt. 73) adequately addresses the issues raised in the Trustee's response and request for hearing (dkt. 66).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Diane Turner Gates

Represented By
Brad Weil

Joint Debtor(s):

Steven Robert Gates

Represented By
Brad Weil

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:17-21588 Cynthia Diane Patton

Chapter 13

#5.00 Hrg re: Objection to Claim #11 by Claimant Midland Funding, LLC.

Docket 30

***** VACATED *** REASON: Withdrawal of Objection to Proof of Claim
Filed 12/02/2019 (Dkt. 38)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia Diane Patton

Represented By
Sundee M Teeple

Movant(s):

Cynthia Diane Patton

Represented By
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:17-21588 Cynthia Diane Patton

Chapter 13

#6.00 Hrg re: Objection to Claim #10 by Claimant Midland Funding, LLC.

Docket 32

*** VACATED *** REASON: Withdrawal of Objection to Proof of Claim
Filed 12/02/2019 (Dkt. 37)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia Diane Patton

Represented By
Sundee M Teeple

Movant(s):

Cynthia Diane Patton

Represented By
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:17-21588 Cynthia Diane Patton

Chapter 13

#7.00 Hrg re: Objection to Claim #14 by Claimant Quantum3 Group, LLC.

Docket 34

***** VACATED *** REASON: Withdrawal of Objection to Proof of Claim
Filed 12/7/19 [dkt. 39]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cynthia Diane Patton

Represented By
Sundee M Teeple

Movant(s):

Cynthia Diane Patton

Represented By
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:17-21589 Kristofferson Pacana Chu

Chapter 13

#8.00 Hrg re: Objection to Claim #3 by Claimant Quantum3 Group, LLC.

Docket 54

***** VACATED *** REASON: Withdrawal of Objection to Proof of Claim
Filed 12/02/2019 (Dkt. 56)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kristofferson Pacana Chu

Represented By
Sundee M Teeple
Craig K Streed

Movant(s):

Kristofferson Pacana Chu

Represented By
Sundee M Teeple
Sundee M Teeple
Craig K Streed
Craig K Streed

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:18-18815 Nicole Leesuvat-Anderson

Chapter 13

#9.00 Cont'd hrg re: Motion to Disallow Claim #7-1
of American Express National Bank
fr. 11/21/19

Docket 55

***** VACATED *** REASON: Voluntary Dismissal of Motion Filed
11/12/19 (Dkt. 71)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicole Leesuvat-Anderson

Represented By
Andrew Moher

Movant(s):

Nicole Leesuvat-Anderson

Represented By
Andrew Moher

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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2:18-18815 Nicole Leesuvat-Anderson

Chapter 13

#10.00 Cont'd hrg re: Motion to Disallow Claims #6-1
of American Express National Bank
fr. 11/21/19

Docket 53

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed
11/12/19 (Dkt. 70)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nicole Leesuvat-Anderson

Represented By
Andrew Moher

Movant(s):

Nicole Leesuvat-Anderson

Represented By
Andrew Moher

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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8:30 AM

2:18-21124 Netner Tawana Kelly

Chapter 13

#11.00 Hrg re: Objection to Claim #2 by Claimant Quantum3 Group, LLC.

Docket 41

Tentative Ruling:

Grant as set forth below. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Proof of Claim 2-1, Proof of Claim 2-2.

Reasons: As of the preparation of this tentative ruling, Quantum3 Group LLC acting as agent for Credit Corp Solutions, Inc. ("Claimant") has not filed an opposition to Debtor's claim objection (dkt. 43), but it did file amended Proof of Claim 2-2 (the "Amended Claim") on 11/26/2019, presumably in response to the objection. This Court deems the Amended Claim a response to the claim objection and finds that the documentation supporting the Amended Claim still fails to establish Claimant's standing to file a claim in this case because there is no evidence establishing that First Electronic Bank assigned its claim to Credit Corp. Solutions Inc. ("CCS") or that Quantum is authorized to act as CCS's agent. Therefore, the tentative ruling is to disallow the Amended Claim in full.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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Central District of California
Los Angeles
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Thursday, December 19, 2019

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8:30 AM

CONT... Netner Tawana Kelly

Chapter 13

Debtor(s):

Netner Tawana Kelly

Represented By
Sundee M Teeple

Movant(s):

Netner Tawana Kelly

Represented By
Sundee M Teeple
Sundee M Teeple
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:18-21124 Netner Tawana Kelly

Chapter 13

#12.00 Hrg re: Objection to Claim #7 by Claimant JC Receivables, LLC.

Docket 43

Tentative Ruling:

Grant claim objection and disallow Claim 7-1 in its entirety. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Netner Tawana Kelly

Represented By
Sundee M Teeple

Movant(s):

Netner Tawana Kelly

Represented By
Sundee M Teeple
Sundee M Teeple
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:19-16238 Marvin E Medina and Blanca F. Medina

Chapter 13

#13.00 Hrg re: Motion For Order Determining Value Of Collateral
[11 U.S.C. § 506(a), FRBP 3012)

Docket 54

Tentative Ruling:

Continue to 1/23/20 at 8:30 a.m., with a deadline of 1/9/20 to file and serve the debtors' declaration addressing the following issue. Appearances are not required on 12/19/19.

Reasons: The KBB printout states that it is a "private party" value, but under 11 U.S.C. 506(a)(2) the value means "the price a retail merchant would charge for the property ..." (emphasis added) (which this Court expects is higher than the "private party" value).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Marvin E Medina

Represented By
Giovanni Orantes

Joint Debtor(s):

Blanca F. Medina

Represented By
Giovanni Orantes

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:19-16680 Alexander Karimi

Chapter 13

#14.00 Cont'd hrg re: Motion to Disallow Claim No. 4-1
fr. 11/21/19

Docket 43

Tentative Ruling:

Tentative Ruling for 12/19/19:

Grant. Appearances are not required on 12/19/19.

This Court expressly finds that Counsel has provided a cost/benefit analysis (dkt. 47) that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections, so any limitation on fees in the prior tentative ruling on this matter is hereby vacated.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/21/19:

Continue to 12/19/19 at 8:30 a.m. to address the following issues.

Appearances are not required on 11/21/19.

Current issues

(1) Missing mandatory form

Debtor has not complied with Local Bankruptcy Rule 3007-1(b)(3) which requires the use of the court-mandated form F 3007-1.1.NOTICE.OBJ.CLAIM. No later than 7 days after the date of this hearing, debtor is directed to file and serve notice on the required form.

(2) Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

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CONT...

Alexander Karimi

Chapter 13

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees related to the continuance of this matter, absent specific authorization. Counsel is directed not to charge any fees on the continuance of this matter (e.g., serving notice of the continued hearing, appearing at the continued hearing), because such fees would not have been necessary if counsel had complied with the applicable rules and procedures to begin with.

In addition, because of the lack of cost/benefit analysis, this Court presumes for present purposes that there is no net benefit to the bankruptcy estate. Accordingly, counsel is prohibited from charging any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose

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CONT... Alexander Karimi
sanctions.

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If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Alexander Karimi

Represented By
Julie J Villalobos

Movant(s):

Alexander Karimi

Represented By
Julie J Villalobos

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:19-16883 Pamela Golden-Rice

Chapter 13

#15.00 Hrg re: Motion objecting to proof of claim filed by
Mirramont Ridge Homeowners Association, Inc.

Docket 26

Tentative Ruling:

Grant and disallow Claim No. 6, with a caution to Debtor's counsel that all future claim objections should include a cost benefit analysis as required by the posted Procedures of Judge Bason (available at www.cacb.uscourts.gov).
Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Pamela Golden-Rice

Represented By
David Samuel Shevitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

8:30 AM

2:19-17084 Eric L Creer

Chapter 13

#16.00 Hrg re: Objection to Claim Number 5 by Claimant Deutsche Bank National

Docket 29

Tentative Ruling:

Deny, without prejudice. Appearances are not required.

Proposed order: Claimant is directed to lodge a separate proposed order via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby adopting it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

Key documents reviewed (in addition to motion papers): Proof of Claim 5-1, Claimant's response & Solivan declaration (dkt. 39, 40), no reply is on file

Reasons:

(a) Burdens of proof

The Proof of Claim contains the documentation required by Rule 3001(c) (Fed. R Bankr. P.) and therefore it is prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). (This Court recognizes that Rule 3001(c) has been amended, after *Campbell* and *Heath*, principally to specify what writings must be attached when a revolving credit agreement is involved, but for other types of claims the language of the rule remains essentially the same.)

(b) Debtor's objection is not persuasive

Debtor's objection does not identify any specific basis to dispute this debt. Debtor has not provided any evidence that he does not owe this debt or, for example, that he disputes any specific charge. For these reasons, Debtor has not met his burden to establish a basis to disallow the claim.

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Eric L Creer

Chapter 13

(c) Debtor's objection appears to ask for more information from Claimant, but the proof of claim already provides sufficient information

Rule 3001 permits creditors to file a brief summary of voluminous information, but in exchange for being permitted to provide this summary such creditors have an obligation to provide more detailed information upon a sufficiently specific request. As stated in *Heath*:

[C]reditors have an obligation to respond to formal or informal requests for information. That request could even come in the form of a claims objection, if it is sufficiently specific about the information required. This obligation to respond applies regardless whether Creditors have met their obligation to provide a summary under Rule 3001(c). [*Heath*, 331 B.R. 424, 436-37 (footnote and citations omitted, emphasis added).]

As also stated in *Heath*:

If the creditor does not provide information or is unable to support its claim, then that in itself may raise an evidentiary basis to object to the unsupported aspects of the claim ... thereby coming within Section 502(b)'s grounds to disallow the claim. We would be faced with a very different case if, for example, Debtors' objections stated that they had written to a Creditor explaining that they questioned specific charges, or that during the slide into bankruptcy they had not reviewed or retained their monthly statements, and therefore they wanted the past twelve months' credit card statements to verify the Creditor's calculation of principal, interest, and other charges. [*Heath*, 331 B.R. 424, 437 (citations omitted, emphasis added).]

In this instance, Debtor's objection does appear to question some charges, although he is somewhat vague about when he is reciting background information and when he is actually objecting to specific charges of principal and interest, escrow charges, other charges such as attorney fees. In any event, Debtor does request additional information. Debtor's objection states:

My records show that I owe less than what in [Proof of Claim No.5] Part #3. The total in the box is incorrect based on my telephone call with Ocwen loan service and Ocwen documentation of reinstatements in 2018 and 2019. My payments consist of principal, interest, and escrow fees. There is no escrow shortage

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or deficiency. My payments are impounded, so you cannot charge me twice. 14 months only amount to \$14,650.30 includ[ing] interest and escrow fees. You also charge[d] me with a June 1, 2019 payment [debit?] of \$1300.10 and BK filing fee \$388.83. I filed BK on 05/10/2019 [Case No. 2:19-bk-15489-WB, which was dismissed 5/28/19 for failure to file required documents, after which this case was filed on 6/18/19] and you added more money [charges?] [on] 06/01/19. An additional \$10,000 was added from 06/01/19 to 8/23/19. Show proof/originals.

On 03/23/18 my payment was \$1314.33[.] That's principal, interest, and escrow fees. This [loan] is a fixed [interest] rate at 3.125% ... Then on 08/01/18 the payments went up \$1334.31 each month ... Can [Claimant's servicer] produce original loan documents signed by me (Debtor)[?] [Claimant's servicer] is double charging (Debtor) in fees. [Debtor's Objection (dkt.29, at PDF pp.3-4) (emphasis added).

Notwithstanding Debtor's objection, all of the prepetition charges appear to be explained in detail in Claimant's proof of claim, a copy of which is attached to the objection. See dkt.29 at PDF pp.9-10 (spreadsheet showing every credit and debit from 4/1/18 through 6/17/19) *and* following pages.

For example, Debtor's objection includes a copy of a loan modification offer dated 03/23/18 that includes principal and interest of \$976.72 (dkt.29 at PDF p.6). That appears to be consistent with the monthly mortgage statements that are also attached to Debtor's objection. Before the modification, those monthly statements list principal and interest amounts that add up to a slightly lower total (see, e.g., dkt.29 at PDF p.21, dated 02/18/18, listing \$289.77 principal and \$677.62 for a total of \$967.39, *and id.* at PDF p.22, dated 03/19/18, listing \$290.52 principal and \$676.87 interest for a total of \$967.39). Then, after March of 2018, the monthly statements list principal and interest amounts that add up to the amount stated in the loan modification (see, e.g., dkt.29 at PDF p.28, dated 04/13/18, listing \$281.75 principal and \$694.97 interest for a total of \$976.72). In other words, Debtor has not established anything wrong about the principal and interest charges.

As for escrow charges, the loan modification proposal plainly states that the monthly amount is only "Estimated" and adds "(adjusts periodically)." Dkt.29, p.6. The detailed spreadsheet attached to the proof of claim includes

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a running total of the dollar amounts in the escrow account, charges to it, etc. The proof of claim also includes a copy of a real estate tax sheet, which is further evidence that the escrow charges are proper. Dkt.28 at PDF pp.16-17.

A recent prepetition monthly statement dated 05/17/19 shows a total for principal, interest, and escrow charges for \$1,321.81 (dkt.28 at PDF p.25). That rebuts Debtor's apparent assertion that there is anything wrong about monthly charges of approximately that dollar amount (which can go up or down, because of fluctuations in the estimated monthly escrow amount, or other proper charges).

Nor does Debtor provide any reason why he needs copies of the original loan documents signed by him. He does not dispute that he borrowed hundreds of thousands of dollars, or that he owes monthly principal, interest, escrow, attorney fee, and other charges. In addition, he does not address why he is unable to obtain copies of the original documents in the usual ways under nonbankruptcy law (e.g., copies from the recorder's office). In addition, Debtor has not established why he needs the original loan documents when he admits that their terms have been superseded as to the key terms by a loan modification. In other words, Debtor's request for additional documentation appears to be solely for purposes of delay, not for any legitimate purpose.

In sum, Debtor's objection could object to specific dollar amounts and show why they were (allegedly) improper, but the objection is insufficient to do that; and alternatively the objection could request more information about how the claim was calculated, if Debtor could establish some reason why more information was needed. But all the information is already included in the proof of claim.

(d) Debtor's objection to **post**petition charges is not properly at issue in an objection to a **pre**petition claim

As the above quote from Debtor's objection shows, he objects to some charges apparently applied after he filed his current bankruptcy petition on 6/18/19. To quote the objection again:

An additional \$10,000 was added from 06/01/19 to 8/23/19. Show proof/originals. [Dkt.29, at PDF p.3]

But proofs of claim are required to show the dollar amount of the claim "as of the date of the filing of the petition" (11 U.S.C. 502(b)), so only

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prepetition charges are included. If Debtor disputes any postpetition charges he will have to challenge these the same as he would outside of bankruptcy (or use some appropriate bankruptcy procedure, not a claim objection).

(e) Conclusion

For all of the foregoing reasons, the tentative ruling is that Debtor's claim objection is denied. Debtor may wish to consider retaining a capable bankruptcy attorney.

Note: This Court also notes that Debtor's proof of service of his motion papers is deficient. Claimant responded anyway, so that deficient service is not dispositive.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Eric L Creer

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

8:30 AM

2:19-17084 Eric L Creer

Chapter 13

#17.00 Hrg re: Objection to Claim Number 4 by Claimant LVNV Funding LLC

Docket 31

Tentative Ruling:

Deny without prejudice. Appearances are not required.

Proposed order: This Court will prepare the order.

Key documents reviewed (in addition to motion papers): Proof of Claim 4

Reasons for denial:

(a) Burdens of proof

The Proof of Claim contains the documentation required by Rule 3001(c) (Fed. R Bankr. P.) and therefore it is prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). (This Court recognizes that Rule 3001(c) has been amended, after *Campbell* and *Heath*, principally to specify what writings must be attached when a revolving credit agreement is involved, but for other types of claims the language of the rule remains essentially the same.)

(b) Claim objections without merit can be overruled, and should be, even absent a response by the claimant

It is often more costly in money and time for a creditor to respond than a claim is expected to be worth, because even if the claim is allowed it will only be paid in what are sometimes called "tiny bankruptcy dollars" (*i.e.*, pennies on the dollar). In addition, any litigation will increase the administrative expense of the debtor's counsel, thereby further reducing recoveries even if the claimant prevails. Recognizing these disincentives to fight claim objections, and also recognizing that claim objections that are not well taken should not be sustained, bankruptcy courts often overrule claim objections even without any opposition by the claimant. See, *e.g.*, *Heath*, 331

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B.R. 424, 427 (affirming bankruptcy court's allowance of claims, despite most creditors' lack of participation before that court or on appeal, and noting bankruptcy court's statement that "[i]t's more trouble [for most Creditors] to respond than the claim is worth"). That approach is consistent with Rule 55(b)(2)(C) and (D) (Fed. R. Civ. P., incorporated by Rules 7055, 9001(7) and 9014(c), Fed. R. Bankr. P.), which give the trial court discretion to conduct a "prove up" hearing any deny recoveries even when the defendant/respondent defaults.

(c) The claim objection was not properly served

The motion papers were not served on Resurgent Capital Services, the entity listed in the creditor's proof of claim (claim no. 4) or to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment of law (Rule 7004(b)(3), Fed. R. Bankr. P.).

(d) Debtor's objection is not persuasive

Debtor's objection does not identify any specific basis to dispute this debt. Debtor has not provided any evidence that he does not owe this debt or, for example, asserted that he timely appealed the state court judgment and that appeal was still pending as of the petition date.

For the foregoing reasons, Debtor has failed to meet his burden to establish a basis to disallow the claim.

Debtor may wish to consider retaining a capable bankruptcy attorney.

Note: This Court also notes that Debtor failed to include a copy of the proof of claim as an exhibit to his objection, or use the mandatory local form of claim objection. In any future objections, Debtor must comply with all applicable rules and procedures regarding claim objections.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 13

Debtor(s):

Eric L Creer

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-17084 Eric L Creer

Chapter 13

#18.00 Hrg re: Objection to Claim Number 3 by Claimant Franchise Tax Board.

Docket 33

Tentative Ruling:

Deny without prejudice. Appearances are not required.

Proposed order: This Court will prepare the order.

Key documents reviewed (in addition to motion papers): Proof of Claim 3-2

Reasons for denial:

(a) Burdens of proof

The Proof of Claim contains the documentation required by Rule 3001(c) (Fed. R Bankr. P.) and therefore it is prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). (This Court recognizes that Rule 3001(c) has been amended, after *Campbell* and *Heath*, principally to specify what writings must be attached when a revolving credit agreement is involved, but for other types of claims the language of the rule remains essentially the same.)

(b) Claim objections without merit can be overruled, and should be, even absent a response by the claimant

It is often more costly in money and time for a creditor to respond than a claim is expected to be worth, because even if the claim is allowed it will only be paid in what are sometimes called "tiny bankruptcy dollars" (*i.e.*, pennies on the dollar). In addition, any litigation will increase the administrative expense of the debtor's counsel, thereby further reducing recoveries even if the claimant prevails. Recognizing these disincentives to fight claim objections, and also recognizing that claim objections that are not well taken should not be sustained, bankruptcy courts often overrule claim objections even without any opposition by the claimant. See, *e.g.*, *Heath*, 331

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B.R. 424, 427 (affirming bankruptcy court's allowance of claims, despite most creditors' lack of participation before that court or on appeal, and noting bankruptcy court's statement that "[i]t's more trouble [for most Creditors] to respond than the claim is worth"). That approach is consistent with Rule 55(b)(2)(C) and (D) (Fed. R. Civ. P., incorporated by Rules 7055, 9001(7) and 9014(c), Fed. R. Bankr. P.), which give the trial court discretion to conduct a "prove up" hearing any deny recoveries even when the defendant/respondent defaults.

(c) Debtor's objection is not persuasive

Debtor's objection does not identify any specific basis to dispute this debt. Debtor has not provided any evidence that he does not owe this debt or, for example, asserted that he timely disputed the tax assessment after receiving a statement and that dispute was still pending as of the petition date. Debtor attached copies of his 2011 and 2012 tax returns, but did not attach any evidence demonstrating that he paid any amount to the Franchise Tax Board for the relevant tax years. Nor has Debtor addressed whether any payments were late, as asserted by Claimant in asserting interest and late charges.

For the foregoing reasons, Debtor has failed to meet his burden to establish a basis to disallow the claim.

Debtor may wish to consider retaining a capable bankruptcy attorney.

Note: This Court also notes that Debtor failed to include a copy of the proof of claim as an exhibit to his objection, or use the mandatory local form of claim objection. In any future objections, Debtor must comply with all applicable rules and procedures regarding claim objections.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 13

Debtor(s):

Eric L Creer

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-17084 Eric L Creer

Chapter 13

#19.00 Hrg re: Objection to Claim Number 2 by Claimant LVNV Funding LLC

Docket 35

Tentative Ruling:

Deny without prejudice. Appearances are not required.

Proposed order: This Court will prepare the order.

Key documents reviewed (in addition to motion papers): Proof of Claim 2

Reasons for denial:

(a) Burdens of proof

The Proof of Claim contains the documentation required by Rule 3001(c) (Fed. R Bankr. P.) and therefore it is prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). (This Court recognizes that Rule 3001(c) has been amended, after *Campbell* and *Heath*, principally to specify what writings must be attached when a revolving credit agreement is involved, but for other types of claims the language of the rule remains essentially the same.)

(b) Claim objections without merit can be overruled, and should be, even absent a response by the claimant

It is often more costly in money and time for a creditor to respond than a claim is expected to be worth, because even if the claim is allowed it will only be paid in what are sometimes called "tiny bankruptcy dollars" (*i.e.*, pennies on the dollar). In addition, any litigation will increase the administrative expense of the debtor's counsel, thereby further reducing recoveries even if the claimant prevails. Recognizing these disincentives to fight claim objections, and also recognizing that claim objections that are not well taken should not be sustained, bankruptcy courts often overrule claim objections even without any opposition by the claimant. See, *e.g.*, *Heath*, 331

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B.R. 424, 427 (affirming bankruptcy court's allowance of claims, despite most creditors' lack of participation before that court or on appeal, and noting bankruptcy court's statement that "[i]t's more trouble [for most Creditors] to respond than the claim is worth"). That approach is consistent with Rule 55(b)(2)(C) and (D) (Fed. R. Civ. P., incorporated by Rules 7055, 9001(7) and 9014(c), Fed. R. Bankr. P.), which give the trial court discretion to conduct a "prove up" hearing any deny recoveries even when the defendant/respondent defaults.

(c) The claim objection was not properly served

The motion papers were not served to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment of law (Rule 7004(b)(3), Fed. R. Bankr. P.).

(d) Debtor's objection is not persuasive

Debtor's objection does not identify any specific basis to dispute this debt. Debtor has not provided any evidence that he does not owe this debt or, for example, asserted that this is a case of identity theft, or that he timely disputed a charge after receiving a monthly statement and that dispute was still pending as of the petition date.

For the foregoing reasons, Debtor has failed to meet his burden to establish a basis to disallow the claim.

Debtor may wish to consider retaining a capable bankruptcy attorney.

Note: This Court also notes that Debtor failed to include a copy of the proof of claim as an exhibit to his objection, or use the mandatory local form of claim objection. In any future objections, Debtor must comply with all applicable rules and procedures regarding claim objections.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 13

Debtor(s):

Eric L Creer

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-17084 Eric L Creer

Chapter 13

#20.00 Hrg re: Objection to Claim Number 1 by Claimant Cavalry SPVI, LLC.

Docket 37

Tentative Ruling:

Deny without prejudice. Appearances are not required.

Proposed order: This Court will prepare the order.

Key documents reviewed (in addition to motion papers): Proof of Claim 1-2

Reasons for denial:

(a) Burdens of proof

The Proof of Claim contains the documentation required by Rule 3001(c) (Fed. R Bankr. P.) and therefore it is prima facie evidence of the validity and amount of the claim. Fed. R. Bankr. P. 3001(f). Alternatively, even if the claim were not entitled to prima facie validity (which it is), the burden is on Debtor to come forward with evidence and legal arguments sufficient to disallow the claim. 11 U.S.C. 502(a). See *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005). (This Court recognizes that Rule 3001(c) has been amended, after *Campbell* and *Heath*, principally to specify what writings must be attached when a revolving credit agreement is involved, but for other types of claims the language of the rule remains essentially the same.)

(b) Claim objections without merit can be overruled, and should be, even absent a response by the claimant

It is often more costly in money and time for a creditor to respond than a claim is expected to be worth, because even if the claim is allowed it will only be paid in what are sometimes called "tiny bankruptcy dollars" (*i.e.*, pennies on the dollar). In addition, any litigation will increase the administrative expense of the debtor's counsel, thereby further reducing recoveries even if the claimant prevails. Recognizing these disincentives to fight claim objections, and also recognizing that claim objections that are not well taken should not be sustained, bankruptcy courts often overrule claim objections even without any opposition by the claimant. See, *e.g.*, *Heath*, 331

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B.R. 424, 427 (affirming bankruptcy court's allowance of claims, despite most creditors' lack of participation before that court or on appeal, and noting bankruptcy court's statement that "[i]t's more trouble [for most Creditors] to respond than the claim is worth"). That approach is consistent with Rule 55(b)(2)(C) and (D) (Fed. R. Civ. P., incorporated by Rules 7055, 9001(7) and 9014(c), Fed. R. Bankr. P.), which give the trial court discretion to conduct a "prove up" hearing any deny recoveries even when the defendant/respondent defaults.

(c) The claim objection was not properly served

The motion papers were not served to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment of law (Rule 7004(b)(3), Fed. R. Bankr. P.).

(d) Debtor's objection is not persuasive

Debtor's objection does not identify any specific basis to dispute this debt. Debtor has not provided any evidence that he does not owe this debt or, for example, asserted that this is a case of identity theft, or that he timely disputed a charge after receiving a monthly statement and that dispute was still pending as of the petition date.

For the foregoing reasons, Debtor has failed to meet his burden to establish a basis to disallow the claim.

Debtor may wish to consider retaining a capable bankruptcy attorney.

Note: This Court also notes that Debtor failed to include a copy of the proof of claim as an exhibit to his objection, or use the mandatory local form of claim objection. In any future objections, Debtor must comply with all applicable rules and procedures regarding claim objections.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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Chapter 13

Debtor(s):

Eric L Creer

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

8:30 AM

2:19-17796 William Smith, Jr.

Chapter 13

#21.00 Hrg re: Motion to avoid junior lien on principal residence with PHH Mortgage Services c/o Nationwide Credit, Inc., its Successors and/or Assigns

Docket 43

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

William Smith Jr.

Represented By
Kevin T Simon

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Los Angeles
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Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:19-18769 Elizabeth Ann Goodman

Chapter 13

#22.00 Hrg re: Motion for order determining value of collateral
[11 U.S.C. section 506(a), FRBP 3012]

Docket 28

Tentative Ruling:

Deny, without prejudice. Appearances are not required.

Reasons:

(1) Service

(a) The motion papers were not served:

(i) to the address for notices in the creditor's proof of claim (claim no. 8) which was filed prior to the time that the motion papers were served (and which appears to be the most recent designated address) (see Rule 2002(g), Fed. R. Bankr. P.).

(ii) to the credit union via certified mail, to the attention of a credit union officer, at an address that appears to be reasonably calculated to reach the officer -- e.g., the address listed for banks on the FDIC website is sufficient (<http://www2.fdic.gov/IDASP/main.asp>), whereas a P.O. Box used for payments is insufficient. Note: Judge Bason does not require that a specific individual be named -- "Attn: Officer" is sufficient. See Rule 7004(h), Fed. R. Bankr. P.

(b) In addition, the proof of service must be signed by someone who is not a party to the proceeding. See Local Bankruptcy Rule Form F9013-3.1.

(2) Appraisal value of the vehicle

Debtor's evidence establishing the value of the vehicle is an appraisal voucher. Dkt. 28 at PDF p.5.

For purposes of determining the dollar amount of a secured claim in a chapter 7 or 13 case, the value to be used is the "replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing." 11 U.S.C. 506(a)(2) (emphasis added). In addition, with respect to property acquired for personal, family, or household purposes, replacement value "shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the

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time value is determined." *Id.* (emphasis added).

The un-authenticated "appraisal" attached to the objection is not admissible evidence, and it does not specify what sort of valuation it is, or whether it meets these statutory standards.

(3) Request for inspection

In its opposition, Randolph Brooks Federal Credit Union ("RBFCU") represents that has attempted without success to contact Debtor to arrange for an inspection of the vehicle. Dkt. 32, p.2. Any lack of response by Debtor to such a request is an alternative reason to overrule the claim objection.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Elizabeth Ann Goodman

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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8:30 AM

2:19-19678 Malcolm E. Williams

Chapter 13

#23.00 Hrg re: Debtor's motion for order modifying
the proof of claim no. 2 filed by LoanCare, LLC

Docket 18

*** VACATED *** REASON: This matter is moot. The claim was
withdrawn on 12/5/19 (dkt. 22).

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Malcolm E. Williams

Represented By
Donny A Ekine

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:19-20652 Carolyn Marjorie Maggio

Chapter 13

#24.00 Hrg re: Objection to Claim Number 1 by Claimant
Federal National Mortgage Association

Docket 30

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address whether they have reached any resolution of their dispute.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Carolyn Marjorie Maggio

Represented By
Chris A Mullen

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Thursday, December 19, 2019

Hearing Room 1545

8:30 AM

2:19-23060 Rene Medina and Maria Medina

Chapter 13

#25.00 Hrg re: Motion to Dismiss chapter 13 case

Docket 16

Tentative Ruling:

Appearances required. There is no tentative ruling. The parties are directed to address (a) whether this Court should accept Debtors' untimely response (dkt.26) and, if so, (b) whether this case should be dismissed, and on what terms.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Rene Medina

Represented By
Bruce A Boice

Joint Debtor(s):

Maria Medina

Represented By
Bruce A Boice

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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9:30 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

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11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Monday, December 23, 2019

Hearing Room 1545

10:30 AM

2:18-24302 GL Master Inc

Chapter 7

#1.00 Hrg re: Notice of resetting of rule 2004 examination
of person most qualified for the Law Offices of Lynn Chao APC

Docket 64

Party Information

Debtor(s):

GL Master Inc

Represented By
Thomas J Polis

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se